

Appendix D

HUD Handbook 4350.3 CHG-27

Section 8 Income Guidelines

Occupancy Requirements of Subsidized Multifamily Housing Programs

4350.3 CHG-27

CHAPTER 3. CERTIFYING TENANT ELIGIBILITY AND CALCULATING TENANT RENTS IN MULTIFAMILY SUBSIDIZED PROJECTS

- 3-1. OVERVIEW. To maximize the limited amount of housing subsidy available to low-income families, Congress and the Department, through its regulations, seek to assure that the subsidy goes to the people who need it the most. In addition, Congress and the Department also provide economic lift to low income families by excluding certain types of income in determining their rent. These laws and regulations determine what income will be counted in determining tenant rents.

The formulas shown in Exhibit 3-3 were established by the 1981 Housing and Community Development Amendments (1981 HCDA) and implemented through CHG-1 to Handbook 4350.3 (Chapter 3) in 3/85. Appendix 16 lists the tenant rent formulas that applied before 3/85.

- a. Owners must perform certifications of applicant and tenant data to determine their eligibility for assistance and level of benefits in accordance with HUD requirements.
 - b. This chapter sets out:
 - (1) Program rules on determining tenant rents.
 - (2) Requirements on owner verifications of data supplied by applicants and tenants.
 - (3) Requirements for owners to electronically transmit tenant data to HUD (or the Contract Administrator, if applicable).
- 3-2. DEFINITIONS. Most of the terms used in this chapter are defined in Exhibits 3-1 (for all programs but PAC and PRAC) and 3-2 (for the PAC and PRAC programs). Because of the length of discussion required to explain certain terms (e.g., adjusted income, child care allowance, medical allowance, handicap/disability assistance allowance), explanations of these terms are provided in the chapter text rather than in Exhibits 3-1 and 3-2.

Regulatory References: The following regulations define income, adjusted income and allowances:

24 CFR 813 - Section 8 programs

24 CFR 215 - Rent Supplement

24 CFR 236 - Section 236, RAP

24 CFR 885 Subpart C - PAC

24 CFR 889 and 890 - PRAC

SECTION 1. Determining Tenant Rents

Subsection A: Owners' Requirements for Determining Tenants' Rents

3-3. COMPUTING TENANTS' RENTS. The rents which assisted households pay are based upon Federal laws and HUD regulations.

- a. Owners compute tenants' rents based upon the statutory Tenant Rent Formulas listed in Exhibit 3-3. Tenant Rent Formulas vary according to:
 - (1) The Family's income and
 - (2) The type of subsidy the family receives (BMIR, Section 236, Rent Supplement, RAP or Section 8)
- b. Owners determine tenants' annual income and adjustments to annual income based upon the income and allowance rules discussed in chapter 3.

NOTE: A household need not have income to be eligible for assisted housing programs that provide deep subsidy (i.e., Section 8, Rent Supplement, RAP). Owners do not determine adjustments to income for BMIR tenants who do not receive any other type of subsidy.

3-4. DOCUMENTS OWNERS MUST USE TO COMPUTE TENANTS' RENTS. Owners must use the following HUD documents in determining and certifying tenant eligibility and tenant rents. The required documents have been revised as part of the automation of the tenant certification and recertification process. For example, the Form HUD-50059 (Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures), which was the paper document for certifying tenant incomes, is being replaced by similar documents that support electronic transmission of tenant data.

- a. Handbook 4350.3, particularly Chapter 3. Chapter 3 and its related exhibits and appendices provide the business rules that support the 50059 Data Requirements for Determining Tenant Rents and the TRACS MAT Guide.
- b. Appendices 3 through 18 of Handbook 4350.3. These appendices provide supporting information for Chapter 3. For example, these appendices provide: verification consents and related information; data collection requirements for determining tenant rents; data entry

rules; additional worksheets for certain tenants; and historical information.

- c. The 50059 Data Requirements for Determining Tenant Rents (which support the electronic transmission of data to HUD/Contract Administrator through TRACS). This document lists and describes the data that owners are required to collect from applicants and tenants and the calculations owners must perform to certify tenant eligibility and tenant rents. This document hereafter will be referred to as The 59 Data Requirements. The rules set out in Handbook 4350.3, particularly Chapter 3, serve as the basis for The 59 Data Requirements. The 59 Data Requirements are contained in Appendix 11.
 - (1) Owners must compute rents for assisted housing tenants using The 59 Data Requirements (i.e., for tenants paying a Section 8, Rent Supplement, RAP; Section 236 or BMIR rent).
 - (2) The 59 Data Requirements provide different instructions for individual tenants, depending upon the type of assistance they receive, the family's individual circumstances (including noncitizen status) and depending upon whether limitations on increases in their rent apply. The 59 Data Requirements impose rent increase limitations for those tenants whose rent increases are limited under paragraph 3-7.
- d. 59 Worksheets D, F and G. These additional worksheets are required only for certain tenants covered by the rent increase protections of paragraph 3-7. The 59 Data Requirements draw from the information that is calculated using these worksheets. (Note that the former worksheet form HUD 50059e is incorporated into the 59 Data Requirements in paragraph c above.) See Appendix 14.
- e. The 59 Owner and Tenant Certifications. The owner and tenant sign certifications concerning the information they each have supplied for the 59 Data Requirements.
- f. TRACS Monthly Activity Transmission (MAT) User's Guide. (MAT Guide). The rules on electronic transmission are set out in the MAT Guide. Owners may obtain copies of by calling 1-800-767-7588. Ask for the Information Packet. See Subsection B, Owners' Requirements to Electronically Transmit Tenant Data to HUD or the Contract Administrator.

3-5. OWNER AND TENANT CERTIFICATIONS (The 59 Certification). These are the signature and file copies for the tenant's records and for the owner's files. A model certification is contained in Appendix 11.

- a. The owner must produce a certification for both the owner and the tenant containing:

- (1) The information which both the tenant and the owner have provided to determine the tenant's rent and;
- (2) A certification statement concerning the accuracy of the information they each have provided.

b. The 59 Owner Certification must:

- (1) Contain the following title: The 50059 Owner and Tenant Certification.
- (2) Contain all of the information fields listed in the 59 Data Requirements in Appendix 11 and contain the exact numbering of these fields.

NOTE: Although the 59 Certification is not an official HUD form, the information contained in it is subject to OMB review and approval.

- (3) Appear in a format that is easily readable and understandable by project staff who must complete and sign the certification and by HUD and Contract Administrator staff who must monitor files.

- (4) Contain the following statements:

- (a) NOTICE TO OWNERS: PENALTIES FOR MISUSING APPLICANT AND TENANT INFORMATION: Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government. HUD, the PHA and any owner (or any employee of HUD, the PHA or the owner) may be subject to penalties for unauthorized disclosures or improper uses of information collected from the applicant or tenant. Any person who knowingly or willfully requests, obtains or discloses any information under false pretenses concerning an applicant or tenant may be subject to a misdemeanor and fined not more than \$5,000. Any applicant or tenant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD, the PHA or the owner responsible for the unauthorized disclosure or improper use.

- (b) NOTICE TO TENANTS ON THE PRIVACY ACT: The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937, as amended (42 U.S.C. 1437 et.seq); the

Housing and Urban-Rural Recovery Act of 1983 (P.L. 98-181); the Housing and Community Development Technical Amendments of 1984 (P.L. 98-479); and by the Housing and Community Development Act of 1987 (42 U.S.C. 3543). The information is being collected by HUD to determine an applicant's eligibility, the recommended unit size, and the amount the tenant(s) must pay toward rent and utilities. HUD uses this information to assist in managing certain HUD properties, to protect the Government's financial interest, and to verify the accuracy of the information furnished. HUD or a Public Housing Authority (PHA) may conduct a computer match to verify the information you provide. This information may be released to appropriate Federal, State, and local agencies, when relevant, and to civil, criminal, or regulatory investigators and prosecutors. However, the information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law. You must provide all of the information requested. Failure to provide any information may result in a delay or rejection of your eligibility approval.

- (c) Public Reporting Burden: The reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2502-2024), Washington, D. C. 20503.

- (5) Contain the following certification that the owner (or designated agent) must sign and date:

- (a) "The 59 Owner Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures: I certify that this Tenant's eligibility, rent and assistance payment have been computed in accordance with HUD's regulations and administrative procedures and that all required verifications were

obtained. I also certify that the computations are based upon the data provided by the Tenant. I have read and understand the purpose and uses of collecting the required information from applicants and tenants and I understand that misuse of this information can lead to personal penalties to me."

- (b) The following warning must appear before the 59 Owner Certification: Warning to Owners - Your signature indicates that you agree with this certification statement.

- (6) Contain the following certification statement that the Family head and any spouse or co-head must sign and date:

- (a) "The 50059 Tenant Certification of the Accuracy of Information Provided to Receive Housing Assistance . (This certification covers the information provided by the Applicant/Tenant in Parts 2, 3 and 4 of the 59 Data Requirements.) This information is used in determining eligibility or the level of benefits. I/We certify that the information I/We have provided is true and complete to the best of my/our knowledge and belief. I/We understand that, if I/We furnish false or incomplete information, I/We can be fined up to \$10,000 or imprisoned up to five years, or lose the subsidy HUD pays and have my/our rent increased. I/We have read the Privacy Act Notice."

- (b) The following warning must appear before the 59 Tenant/Applicant certification: "Warning to Tenants - Your signature means that you have read the Privacy Act Notice and agree with the certification statement."

- c. Owners must give the Family head a copy of the 59 certification which contains the signature of both the applicant/tenant and the owner. This may be a copy with original signatures or it may be a photo or carbon copy. (There are some submissions for which the owner will not have to obtain the tenant's signature, e.g., gross rent change; unit transfer. The owner is not required to provide the tenant with a copy of these certifications unless the tenant or applicant requests a copy.)

3-6. RECORDKEEPING

- a. Owners must retain the original, signed and dated 59 Certification in the tenant's file for at least three years. This copy must contain the signatures of both

the owner and the Family head and any spouse or co-head.

- b. All tenant files and information must be kept in a location that assures confidentiality. See paragraph 3-39g.

USEFUL REFERENCES

Tenant Rent Formulas	Exhibit 3-3
Definition Annual Income	Section 2, Annual Income Exhibit 3-4, Assets Exhibit 3-5, Annual Income
Adjustments to Income	Section 3, Adjusted Income

3-7. STATUTORY LIMITATIONS ON THE INCREASES IN TENANT RENTS IMPLEMENTED IN 1985 THAT MAY STILL AFFECT SOME INDIVIDUAL TENANT'S RENTS TODAY.

- a. The 1983 Housing and Urban Rural Recovery Act (HURRA) and the Housing and Community Development Technical Amendments Act of 1984 (HCDA) changed the formulas and allowances used in determining tenant rents. Handbook 4350.3, CHG-1, dated March 1985, implemented these statutory changes. Exhibit 3-3 contains the current rent formulas required by HURRA and HCDA. Appendix 17 contains the formulas and allowances that were in effect before HURRA and HCDA.
- b. Owners calculate statutory limitations on increases in tenant rents using the worksheets in Appendix 14. Tenants who may still be benefitting from limitations on their rent increases are:

See Appendix 13 for the statutory limitations on increases in tenant rents that may still apply to some tenants.

- (1) Elderly Rent Supplement Tenants;
- (2) Section 8 tenants who were converted from Rent Supplement or RAP between 10/1/81 and 9/30/84 when they were age 62 or older; and
- (3) Section 8 tenants who were converted from Rent Supplement (on or after 10/1/84) when they were age 62 or older).

NOTE: Most of the tenants who once benefitted from the statutory protections on rent increases are now paying the full rent required under the law. Appendix 13 describes the statutory limitations on increases in tenant rents that may still apply. Owners previously performed special calculations on worksheets that

supplemented the form HUD 50059 (i.e., forms HUD 50059-d, f, and g, among others). Protections on increases in rent that may still apply are calculated using the Worksheets D, F and G of the 59 Data Requirements in Appendices 14a, b and c.

- c. The 1981 Housing and Community Development Act limited the amount a family's rent could increase in any one year due to the statutory changes in determining rent.
 - (1) Under the 59 Data Requirements, tenants' rents are computed under both the pre-1984 rules and the current rules until the tenant's rent computed under the current rules is not more than 10% above the rent computed under the pre-1984 rules.
 - (2) After the annual recertification is processed AND the tenant is NOT affected by the 10 percent limitation, special calculations providing limitations on rent increases are no longer required.

Subsection B: Owners' Requirements to Electronically Transmit Tenant Data to HUD or the Contract Administrator

3-8. ELECTRONIC TRANSMISSION OF TENANT DATA TO HUD OR THE CONTRACT ADMINISTRATOR

- a. All owners subject to Chapter 1 of Handbook 4350.3 must electronically submit tenant certifications and recertifications to HUD (or the Contract Administrator, if applicable) via the Tenant Rental Assistance Certification System (TRACS).
 - (1) This requirement covers Owners of 221(BMIR) and 236 projects. They must electronically submit data on tenants who do not receive assistance through Section 8, Rent Supplement or RAP. This is a change in policy. Formerly Appendix 1 (Form HUD 50059), dated 2-86, did not require submission of data on 221(d)(3)BMIR and 236 tenants who did not pay an assisted rent, unless required to do so by the HUD office or the Contract Administrator. (This policy change is found in 24 CFR 208.)
 - (2) Projects subject to a Preservation Plan of Action are not subject to this section. Owners of these projects must follow Chapter 8 of Handbook 4350.6 for the requirements to certify tenant eligibility and income and to bill for assistance payments.
 - (3) Projects that are HUD-owned are not subject to this Section. See Handbook 4315.1 on how to determine tenant rents. However, if a HUD-owned project is sold with assistance that is covered by Handbook 4350.3, then this Subsection would apply.

- b. The MAT Guide referenced in paragraph 3-4 establishes the requirements for electronic transmission. The Department has coordinated the development of Chapter 3 and the MAT Guide to carry out the laws and regulations that govern the multifamily housing assistance programs.
- c. The 59 Data Requirements assist owners in making the entries required by the MAT Guide. Owners must follow the Chapter 3 business rules when entering the information required by the 59 Data Requirements in Appendix 11.

Regulatory References - 24 CFR Part 208

The April 1, 1995 volume of the Code of Federal Regulations will contain the final rule dated August 24, 1994. See FR 43472 dated August 24, 1994 if you are using an earlier version of the CFR. The 1994 volume contains the interim rule at 58 FR 61022, dated November 19, 1993.

SECTION 2. Annual Income

Subsection A. What Income is Counted in Determining Annual Income

- 3-9. ANNUAL INCOME is the gross income the Family anticipates it will receive in the 12-month period following the effective date of certification of income.

Total Income from all Sources = Annual Income

Earned/ Unearned Income	+	Income = from Assets	Annual Income
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NOTE: Chapter 2 of Handbook 4350.3 provides the eligibility rules for admission to a particular project. Chapter 3 provides the rules for determining income. By referring to "family", as provided by regulation, Chapter 3 distinguishes between members of the tenant household and other persons living in the unit (e.g., live-in attendant who is not listed on the lease, is not a member of the tenant household and whose income and circumstances are not considered in determining the household's annual income or adjusted income). Concerning eligibility to a particular project, consult with Chapter 2.

- a. The regulations list examples of income that are included in Annual Income. They also list specific types of income that are excluded from income. Generally, if a particular type of income is not specifically mentioned as being excluded, then it is included in Annual Income.
- b. Exhibit 3-4 lists the types of assets that are used in

determining Annual Income.

- c. Exhibit 3-5 lists the types of income that are used in determining Annual Income.

3-10. WHOSE INCOME IS COUNTED AND WHOSE INCOME IS NOT COUNTED:

- a. Count the income of the individuals listed below:

- (1) Annual income of the head, spouse or co-head and other adult members of the family

- (a) Include under this paragraph the annual income of individuals under the age of 18 who have entered into a lease under state law. (They will be either the head, spouse or co-head.) Such persons are sometimes referred to as emancipated minors (e.g., a person under the age of 18 who is married). However, if an emancipated minor is residing with a family as a member other than the head, spouse or co-head, the individual would be considered a dependent and would be covered by paragraph (2) below.

- (b) Count only the first \$480 in earnings of a full-time student over the age of 18 who is not the head, co-head or spouse. See Figure 3-1. Note that all of the full-time student's unearned income is counted.

- (2) Unearned income of children under the age of 18 who are members of the family. (This is any income that is not employment income.) They will be listed as dependents on the 59 Data Requirements. Also include any unearned income of:

- (a) children temporarily absent due to placement in a foster home.
- (b) children who are away at school but who live with the family during school recesses.

NOTE: Paragraph 3-25 clarifies that when more than one family shares joint custody of a child and they both live in assisted housing, only one family can claim the dependent allowance. The family that counts the dependent allowance also counts the unearned income of the child. The other family neither claims the dependent allowance nor counts the unearned income of the child.

- (3) Income of Temporarily Absent Family Members who are still considered Family members. Read paragraph 3-17 and consult with the family to determine whether the individual should be considered a family member. (If this individual is considered a family member, then she/he would be listed on the 59 Data Requirements.) NOTE: The head, spouse or co-head must always be listed on the 59 Data Requirements, even if they are temporarily absent.
 - (4) Income of Persons Permanently Confined to a Hospital or Nursing Home. Read paragraph 3-18 and consult with the family to determine whether the individual should be considered a Family member. (If this individual is considered a Family member, then she/he would be listed on the 50059 Requirements). NOTE: Such persons may not be the Head, Co-head or Spouse.
- b. Do Not count the income of the individuals listed below. These individuals are not considered members of the Family. (But see paragraph 2-18, Determining Unit Size at Move-in. Such persons are considered when determining unit size for the household.) Do not count:
- (1) Any income of a live-in-aid/attendant. (See the definition in Exhibit 2-1 of Handbook 4350.3 which expands upon the definition of "live-in aid" in 24 CFR 812.2, 215.1, and 236.2 as found in Exhibit 3-1.)
 - (2) Any income of a guest. Friends or relatives who visit for short periods of time are not considered members of the Family. See also paragraph 13, General Restrictions, of the Model lease. This paragraph states that the tenant agrees to permit other individuals to reside in the unit only after obtaining the prior written approval of the Landlord.
 - (3) Any income of a foster child or foster adult. Foster adults are considered to be individuals with disabilities, unrelated to the tenant family, who are unable to live alone.

FIGURE 3-1

Whose Income is Counted?

(NOTE: All persons residing in the unit must be listed on the 59 Data Requirements, but not all persons residing in the unit are members of the Family (e.g., live-in

attendants; foster children and foster adults are not members of the family).

	Employment Income	Other Income (including income from assets)
Members		
Head	Yes	Yes
Spouse	Yes	Yes
Co-Head	Yes	Yes
Other Adult	Yes	Yes
Dependents		
-Child under 18	No	Yes
-Full time Student over 18 1/	1/	Yes
Non-members		
-Foster Child	No	No
-Foster Adult	No	No
-Live-in Attendant	No	No

1/ The earned income of a full-time student 18 years old or older who is not the head, co-head or spouse is excluded to the extent that it exceeds \$480. (See Exhibit 3-5.)

Subsection B. Business Rules Used in Determining Annual Income

3-11. CALCULATION METHODOLOGIES TO USE IN DETERMINING ANNUAL INCOME

- a. To annualize full-time employment, multiply:
 - (1) hourly wages by 2,080 hours
 - (2) weekly wages by 52
 - (3) bi-weekly amounts by 26
 - (4) semi-monthly amounts by 24
 - (5) monthly amounts by 12
- b. To annualize income from other than full-time employment, multiply periodic amounts (hourly, monthly, bi-weekly, etc.) by the number of periods (hours, weeks, months) the family member expects to work.
- c. Use an annual wage without additional calculations. For example, if a teacher is paid \$25,000 a year, use \$25,000 whether the payment is

made in 12 monthly installments, 9 installments or some other payment schedule.

- d. Use current circumstances to project income, unless verification forms indicate that an imminent change will occur. See the example following this paragraph.

EXAMPLE of Anticipated Increase in Hourly Rate

February 1	Certification Effective Date
\$7.50/hour	Current Hourly Rate
\$8.00/hour	New rate to be effective March 15

(40 hours per week x 52 weeks = 2080 hours per year)

February 1 through March 15 = 6 weeks
6 weeks x 40 hours = 240 hours
2,080 hours minus 240 hours = 1840 hours
(check: 240 hours + 1840 hours = 2080 hours)

Annual Income is calculated as follows:

240 hours x 7.50 =	\$ 1,800
1840 hours x 8.00 =	\$14,720
Annual Income	\$16,520

NOTE: Use the data entry procedures in Appendix 12, Data Entry Rules for the Owner and Tenant Data Requirements.

- e. If a family indicates that income might not be received for the full 12 months (e.g., unemployment insurance benefit is expected to terminate), the owner should still annualize the income and advise the family to report any subsequent loss of the income so that rents may be recalculated. This way, the rent will be calculated correctly.

EXAMPLE of How to treat income that is expected to be received for less than 12 months.

Annual recertification is scheduled for 4-1-95.
Tenant's unemployment benefit of \$325 per month terminates on 10-1-95.

Count \$3,900 as unemployment income (\$325 x 12 months). This will give the tenant the correct monthly assistance payment. Instruct tenant to report loss of income when benefits are terminated. See also paragraph 5-11, Owner Responsibility for Processing Interim Recertifications.

- f. If an agency is reducing a family's benefits to adjust for a prior overpayment (e.g., Social Security, SSI, AFDC or unemployment benefits),

count the amount that is actually provided after the adjustment.

EXAMPLE: Mr. Green's Social Security Payment of \$250 per month is being reduced by \$25 per month for a period of 6 months to make up for a prior overpayment. Count his Social Security income as \$225 per month for the next 6 months and for the remaining 6 months as \$250 per month.

3-12. VALUING ASSETS. In determining income from assets, owners must use the cash value of the asset (i.e., the amount the family would receive if the asset were converted to cash. Cash value is the market value of the asset minus reasonable costs that were or would be incurred in selling or converting the asset to cash. Expenses which may be deducted include:

- a. Penalties for withdrawing funds before maturity
- b. Broker/legal fees assessed to sell or convert the asset to cash
- c. Settlement costs for real estate transactions
- d. Loans on the asset (except see paragraph 3-21, income from a Business)

EXAMPLE: Mrs. Player owns a rental house. The market value is \$100,000. She owes \$60,000. The cost to dispose of this house would be \$8,000. The owner would determine the cash value as follows:

Market Value	\$100,000
Mortgage amount	- 60,000
	40,000
Cost of disposing of the asset (real estate commission, and other costs of sale)	- 8,000
Cash Value	32,000

3-13. ASSETS OWNED JOINTLY. If assets are owned by more than one person, prorate the assets according to their percentage of ownership. If no percentage is specified or provided by state or local law, prorate the assets evenly among all owners.

EXAMPLE: Mrs. Wright is an assisted housing tenant. She and her daughter, Ms. Duncan, who lives 2,000 miles away, have a joint savings account. Assume that in this example that State law does not specify ownership. Even though either Mrs. Wright or Ms. Duncan could each withdraw the entire asset for her own use, count Mrs. Wright's ownership as 50% of the account.

NOTE: If an asset is not effectively owned by an individual, do not count it as an asset. See examples in Exhibit 3-4, paragraph B.6.

3-14. ASSETS CONVERTED TO TRUSTS. A trust is generally considered a legal arrangement regulated by state law in which one party holds property for the benefit of another. A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Trust assets are typically transferred to the beneficiary upon the death of the grantor. Chapter 3 recognizes two types of trusts, revocable and nonrevocable (irrevocable trusts). See Figure 3-2.

a. Revocable Trusts.

- (1) The grantor of a revocable trust can change this type of trust as often as s/he wishes and, therefore, has access to this asset at any time.
- (2) Count the trust as an asset under Exhibit 3-4.

EXAMPLE of a revocable trust

Mr. Childress establishes a trust of \$60,000 in his daughter's name. (The daughter is not a member of the household.) Because it is revocable, he can modify this trust at any time and have access to it. For purposes of this example, the income is either reinvested into the trust or paid to his daughter. Treat this trust as a current asset. Even though Mr. Childress does not receive the income from this asset, he is required to report the cash value of the asset and the income the trust generates. Because it is still considered to be an asset owned by Mr. Childress, it is not considered an asset disposed of for less than fair market value.

b. Nonrevocable Trusts (irrevocable Trusts).

- (1) This is a trust agreement that allows an individual to permanently transfer assets during his/her lifetime to someone else.
- (2) Trusts which are not revocable by or under the control of any member of the family are not considered assets.
- (3) Instead, the regulation requires that the actual income distributed to the tenant family from such a trust be counted when determining Annual Income. See Exhibit 3-5. (As with all income, this is the gross amount

received before taxes or other deductions.)

- (a) As long as the trust exists, any income distributed from the trust to the tenant family must be counted as income.
 - (b) If there is no income distributed from the trust, then do not count any income from the trust (e.g., income from the trust that is reinvested into the trust).
- (4) If an asset is disposed of for less than fair market value by being converted to a nonrevocable trust, assuming that no consideration is received or the consideration which is received is less than fair market value, then the owner must count such an asset for a period of two years in accordance with paragraph 3-16.
- (a) In addition, any actual income distributed from the nonrevocable trust must also be counted as income under paragraph (3) above. Therefore, for a two-year period, the owner will consider this asset for purpose of income computation and, in addition, count actual income distributed from the nonrevocable trust to the tenant family.
 - (b) Following the two year period, the owner will count only the actual income distributed from the trust to the family.

EXAMPLE of a trust that is not revocable by or under the control of any member of the family, where the income is not distributed from the trust.

Mr. Charaf had \$100,000, which he disposed of by creating a nonrevocable trust controlled by his son. (Mr. Charaf's son does not live with him.) The trust produced income of \$8,000 in 1995, which was reinvested into the trust. Do not count the \$8,000 as Annual Income because Mr. Charaf did not receive any income from this trust. Do not count the cash value of the trust (\$100,000) as a current asset. Instead, since Mr. Jones disposed of this asset for less than fair market value, count the asset for a period of two years in accordance with paragraph 3-16. The owner would follow paragraph 3-12 in valuing this asset.

EXAMPLE of a trust that is not revocable by or under the control of any member of the family. The

grantor receives the income distributed from the trust.

Ms. Bouchard has established, within the past two years, a nonrevocable trust in the amount of \$35,000 that no one in the tenant family can control. Income from this trust is distributed to Ms. Bouchard. The actual income distributed from

continued

Example continued - nonrevocable trust

this trust would be counted in determining Ms. Bouchard's annual income. For example, in 1996 \$3,500 was distributed. Therefore, the owner would count this \$3,500 as annual income to Ms. Bouchard. Also, because Ms. Bouchard disposed of an asset for less than fair market value, the owner must count this disposition in accordance with paragraph 3-16. The owner will determine the cash value of the asset under paragraph 3-12 and will count it as an asset disposed of for less

than fair market value for a period of two years. It may appear that this procedure would require the owner to double-count this asset. But, first the owner counts the asset which was disposed of for a period of two years and, concurrently, the owner counts the actual income from the current holding (the nonrevocable trust).

EXAMPLE of a trust that is not revocable by or under the control of any member of the tenant family, where the income is distributed to someone outside the tenant family.

Ms. Rockland is a sole member of a tenant family. In 1995 she established a nonrevocable trust in the amount of \$50,000 that she cannot control. She did not receive any compensation for this asset. In 1995, Ms. Rockland's son, who lives in another city, received \$7,000 which was distributed from the trust. Do not count the \$7,000 as income to Ms. Rockland, because she did not receive it. However, do count the asset as being disposed of

FIGURE 3-2

TRUST FUNDS - GRANTOR

Revocable	Nonrevocable (irrevocable)
TREAT AS AN ASSET	TREAT AS INCOME
The grantor can change this trust as often as	Under a nonrevocable trust, The grantor cannot gain

s/he wishes and can have access to this asset at any time. Generally, upon the death of the grantor, the asset is transferred to the beneficiary.

Treat this trust as an asset of the grantor under Exhibit 3-4, no matter who receives the income from this asset. Income received by the beneficiary will be counted as income. Nonrevocable (irrevocable)

TRUST FUNDS - BENEFICIARY

Revocable Trust

Count the actual income received

Nonrevocable Trust

Count
the actual income received

Regulatory reference: 24 CFR Parts 812.102, 215.1 and 236.2
state:

"(In cases where a trust fund has been established and the trust is not revocable by or under the control of any member of the family, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund should be counted when determining Annual Income.)"

Regulatory Reference: 24 CFR Parts 813.102, 215.1 and 236.2
state:

In determining Net Family Assets, Owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or [recertification], as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than

access to this trust.

Do not treat this trust as an asset. Count the actual income distributed to the family from the trust in accordance with paragraph A.12 of Exhibit 3-5. Also,

count the original asset (which was placed into trust) as an asset disposed for less than fair market value in accordance with paragraph 3-16.

fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

3-15. IMPUTED INCOME FROM ASSETS. (This paragraph does NOT apply to families receiving ONLY BMIR assistance.) If the net family assets exceed \$5,000, Annual Income must include the greater of:

a. The actual income from assets

or

b. An imputed income from assets. Owners must impute income by multiplying total net family assets by the passbook rate specified by HUD. Until further notice, owners must use a rate of 2 percent (.02).

Figure 3-3

CALCULATING INCOME FROM ASSETS

Type of Asset 1/	TOTALS	Cash Value of Asset
Checking Account		\$ 300
Savings Account		2,000
Certificates of Deposit		10,000
Rental Property Currently Vacant		15,000
TOTALS		\$ 27,300
Actual Income Per Year		
\$ 0		
115		
986		
0		
\$ 1,101		

Since total assets in this example exceed \$5,000, the owner must calculate the imputed income. In this example, the owner would multiply the Net Family Assets of \$27,300 by .02, totaling \$546. The owner will enter this amount as the imputed income on assets in the 59 Data Requirements. The income from assets to be included in Annual Income will be \$1,101 in this example since the actual income received is greater than the imputed income on net family assets (\$1,101

is greater than \$546.).

1/ These are the assets owned by the entire Family.

3-16. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE
WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THE
CERTIFICATION OR RECERTIFICATION, including assets put
into a nonrevocable trusts. (This paragraph does NOT
apply to families receiving only BMIR assistance.)

NOTE: This paragraph applies to family assets and
business assets.

- a. Applicants and tenants must declare whether an
asset has been disposed of for less than fair
market value at each certification and
recertification.
- b. Assets are considered to be disposed of for less
than fair market value if the cash value of the
disposed asset exceeds the gross amount the family
received by more than \$1,000.
- c. In such cases, owners must include the whole
difference between the cash value of the asset and
the amounts received. If the difference is less
than \$1,000, ignore it.

NOTE: Use cash value if there are costs incurred
in disposing of the asset. See paragraph 3-12 on
how to determine cash value.

d. Do consider:

- (1) Assets disposed of for less than fair market
value when they are placed into a
nonrevocable trust (assuming that no
consideration is received or the
consideration which is received is less than
cash value) See also paragraph 3-14b for a
further discussion of nonrevocable trusts.
NOTE: Amounts received through settlements
or judgments that are placed into
nonrevocable trusts on behalf of a member of
the family are not considered as assets
disposed of for less than fair market value.
EXAMPLE: Mr. and Mrs. Taylor's daughter,
Amanda, was injured in a car accident. She
received a settlement of \$300,000 to
compensate her for injuries and future loss
of income. The attorney handling the case
set up a nonrevocable trust of \$300,000 for
the benefit of Amanda. This trust is not
under the control of any member of the tenant
family. Count only the actual income
distributed from the trust to Amanda.

- (2) Business assets that are no longer part of an active business that are disposed of for less than fair market value. (Business assets are excluded from net family assets only while they are part of an active business.)

e. Do NOT consider assets disposed of for less than fair market value as a result of:

- (1) foreclosure
- (2) bankruptcy, or
- (3) a divorce or separation agreement if the applicant or tenant receives important consideration not measurable in dollars.

EXAMPLES OF ASSETS DISPOSED OF FOR LESS THAN
FAIR MARKET VALUE

EXAMPLE: On 7/5/95, Mr. and Mrs. Clark deeded their house to their daughter, who paid them \$5,000 for it. Compute the cash value of the house as described in paragraph 3-12, Valuing Assets. On any recertification or certification effective on or before 7/4/97, count as an asset the difference between the cash value and the \$5,000 the Clarks received.

continued--

EXAMPLES OF ASSETS DISPOSED OF FOR LESS THAN
FAIR MARKET VALUE--Continued

EXAMPLE: Mrs. Roulliard sells her home and receives \$100,000 after the costs of sale and mortgage pay-off. She places the entire amount into a nonrevocable trust, which her children control and she does not receive any consideration. Count \$100,000 as an asset for two years, because it is an asset disposed of for less than fair market value.

NOTES: 1) If the trust distributes income to Mrs. Roulliard or to anyone in the tenant family, then the owner also will count the actual income distributed in determining the family's total annual income.

2) However, had Mrs. Roulliard placed the proceeds into a revocable trust, it would have been counted as an asset as long as the trust exists (and the 2-year requirement for counting assets disposed of for less than fair market value would not apply). See paragraph 3-14.

EXAMPLE: Mrs. Pointdexter had \$8,000 in the bank. She decided to give half of it to her daughter and to keep the other half. The fair market value of the disposed of asset is \$4,000, which exceeds the amount she received by more than \$1,000 (\$4,000 minus \$0 equals \$4,000). Therefore, the owner is required to count the \$4,000 she gave to her daughter as an asset for a period of two years. The other

EXAMPLES OF ASSETS DISPOSED OF FOR LESS THAN
FAIR MARKET VALUE - CONTINUED

EXAMPLE: Mr. Grant had a stamp collection valued at \$999 which he gave to his son. Since the fair market value of the stamp collection is less than \$1,000, the difference between the fair market value and the amount received will be less than \$1,000. Therefore, this would not be considered an asset disposed of for less than fair market value because its value is less than \$1,000.

EXAMPLE: Mrs. Templeton had mutual funds with a market value of 1,001, which she gave to her daughter. Since the difference between the market value (\$1,001) and the amount she received (\$0) is \$1,000 or greater, the owner must count \$1,001 in mutual funds as an asset for two years. (Assume for this example that there were no commissions that Mrs. Templeton had to pay since she paid them when she purchased the shares in the fund and that there are no fees for closing the account.)

Regulatory Reference: 24 CFR Parts 813.102, 215.1 and 236.2
state:

In determining Net Family Assets, Owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or [recertification], as applicable, in excess of the consideration received therefor. In the case of a

Regulatory Reference continued:

disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

3-17. INCOME OF TEMPORARILY ABSENT FAMILY MEMBERS. Owners must decide if the absent person still qualifies as a Family member. If the individual does, he or she must be listed on the 59 Data Requirements and all of

his/her income must be included, even if part of it is not available to the Family. If the individual does not qualify as a Family member, he/she is not listed on the 50059 Data Requirements and his/her income must not be counted.

NOTE: The owner must count the income of the head and any co-head or spouse if they are temporarily absent.

EXAMPLES OF INCOME OF TEMPORARILY ABSENT FAMILY MEMBERS

EXAMPLE A Family member accepts temporary employment in another location and retains a portion of the income to cover living expenses in the new location. The full amount of the income must be included in annual income.

EXAMPLE: A Family member is temporarily confined to a hospital or nursing home. All income received by or for that person must be included. (See paragraph 3-17 for individuals permanently confined.)

EXAMPLES OF INCOME OF TEMPORARILY ABSENT FAMILY MEMBERS continued--

EXAMPLE: A son or daughter goes on active military duty and retains the parents' home as a legal residence. If this person leaves dependents or a spouse in the unit, the military pay must be included in annual income. (Except pay to a family member exposed to hostile fire is excluded from Annual Income. See Exhibit 3-5.) If no dependents or spouse are left in the unit, the son or daughter should not be considered a Family member and the owner must not include that person's income in annual income, nor may the owner include any adjustments to Annual Income for that individual under Section 3 of this Chapter (paragraphs 3-24 through 3-29).

3-18. INCOME OF PERSONS PERMANENTLY CONFINED TO A HOSPITAL OR NURSING HOME. These persons may NOT be named as family head, spouse or co-head. The family may choose to:

- a. Include the absentee individual as a member of the Family and thus include income attributable to such individual as income and take advantage of any allowances to Annual Income for which the individual would qualify; or
- b. Exclude the absentee individual as a member of the Family and thus not include the income attributable to such individual and not take any of the deductions for which the individual would

qualify.

Subsection C. Explanations of Certain Types of Income

- 3-19. LUMP SUM RECEIPTS. (These are one-time receipts which are counted as assets.)
- a. Lump sum receipts include inheritances, capital gains, one-time lottery winnings, victim's restitution; settlements on insurance claims (including health and accident insurance; worker's compensation; and personal or property losses); and any other amounts that are received in a one-time (lump sum) payment.
 - b. Count as an asset any amount that is deposited into a checking or savings account or other asset listed in paragraph A of Exhibit 3-4. The owner will obtain this information at the regularly scheduled recertification. However, see paragraph 5-8, Tenant's Obligation to Report Interim Changes. It is possible that a lump sum that is converted to assets may be large enough to require the Family to report an increase in income before the next regularly scheduled annual recertification. But this requirement to report an increase in income before the next annual recertification would not apply if the income from the asset were not measurable by the tenant (e.g., U.S. Savings Bonds, gems, stamp collection).

EXAMPLES OF LUMP SUM ADDITIONS TO FAMILY ASSETS (ONE-TIME PAYMENT):

EXAMPLE: Ms. Wettig won \$500 in the lottery and received it in one payment. Do not count the \$500 as income. At Ms. Wettig's next annual recertification, she will report all of her assets.

EXAMPLE: Ms. LaRue won \$25,000 in the lottery. She buys a car with some of the money, and puts the remaining amount of \$14,000 in the bank. Ms. LaRue receives her first bank statement and notices that the income on this asset is \$52 per month. She would be required under paragraph 5-8 to report this increase in income because the Family has experienced a cumulative increase in income of more than \$40 per month. The owner would perform an interim recertification and count the greater of the actual or imputed income on this asset (since the net family assets are greater than \$5,000).

- 3-20. DELAYED PERIOD RECEIPTS (DEFERRED PERIODIC RECEIPTS). Count delayed periodic receipts as Annual Income. These are amounts received in one amount but were

supposed to be paid periodically (e.g., unemployment benefits). Such receipts are provided in one amount because of circumstances such as processing delays.

NOTE: Delayed periodic payments of supplemental security benefits and social security benefits that are received in a lump sum are excluded from Annual Income. See Exhibit 3-5, paragraph B.15.

Periodic is commonly
defined as:
recurring at regular intervals;

intermittent; occurring from
time to time

- a. Typically, delayed periodic receipts follow periods of reduced income. Depending on individual circumstances, the tenant may or may not request an interim recertification for the period in which s/he is experiencing reduced income. The owner's actions on treating the delayed periodic receipt will vary depending on whether or not the owner performed an interim recertification when the tenant experienced a reduction in income.

- (1) If the owner processed an interim recertification for the period in which the resident had reduced income, the owner must process another recertification when the resident reports the delayed periodic receipt. See the example at the end of this paragraph. See also paragraph 5-12 for the effective date of interim adjustments.

NOTE: The tenant is obligated by the lease to report certain changes in Family income and composition that occur between regularly scheduled recertifications. (See paragraph 5-8).

- (2) If the resident did not request an interim recertification for the period in which the Family had reduced income, the owner should not include the delayed periodic receipt in Annual Income. See the example at the end of this paragraph.

- b. If the delayed periodic receipt was intended for a period(s) during which the individual was not living in assisted housing, do not treat the amount as income. Instead treat the amount as a one-time (lump sum) receipt under paragraph 3-19.

FIGURE 3-4

DISTINGUISHING BETWEEN DELAYED PERIODIC RECEIPTS AND LUMP SUM RECEIPTS

Ask: Was the amount received

supposed to be paid in periodic amounts?

YES

Treat the delayed periodic receipt as income under paragraph 3-20.

But if the delayed periodic receipt covers a period during which the individual was not living in assisted housing, treat this receipt as a one-time lump sum, not as income.

NO

The tenant will report all assets at the next regularly scheduled annual recertification. This will include any amount from the lump-sum payment that is placed into an account or other asset listed in Exhibit 3-4. (But see paragraph 5-8.)

EXAMPLE OF HOW TO TREAT DELAYED PERIODIC RECEIPTS

NOTE: See paragraph 5-11 of Handbook 4350.3, Owner Responsibility for Processing Interim Recertifications.

Tenant loses her job on 5/20/95. Unemployment benefits are delayed. On 7/10/95, the tenant receives a delayed periodic receipt of \$600 for 5/21/95 through 7/7/95. Beginning 7/8/95, the tenant receives \$100 per week in unemployment benefits.

EXAMPLE #1: THE OWNER PROCESSES AN INTERIM RECERTIFICATION TO REFLECT THE LOSS OF INCOME BEFORE RECEIPT OF THE UNEMPLOYMENT

BENEFITS

After the tenant receives the delayed periodic payment in July, the owner processes an interim recertification to reflect the payment of the unemployment benefits. The interim recertification is effective 9/1/95. See the computation of Annual Income below. Note that the owner annualizes income, as required by paragraph 3-11, and reminds the tenant that s/he must come in for an interim recertification when s/he gets a job.

\$ 600 delayed periodic receipt (count the
actual amount received)
+ 5,200 \$100/week unemployment (Annualize the
unemployment benefit)
\$ 5,800 Annual Income from Unemployment

EXAMPLE #2: THE OWNER DOES NOT PROCESS AN INTERIM
RECERTIFICATION TO REFLECT THE LOSS OF INCOME BEFORE RECEIPT
OF THE UNEMPLOYMENT BENEFITS

Example 2 continued--

After the tenant receives the delayed periodic receipt in July, the owner processes an interim recertification. The interim is retroactive to 6/1/95. Annual Income is determined as follows: \$5,200 (52 weeks times \$100 per week.)

3-21. INCOME FROM A BUSINESS. Include:

- a. Salaries paid to adult family members;
- b. Cash or assets withdrawn by any family member - except to the extent that the withdrawal is the reimbursement of cash or assets the family invested in the business; and
- c. Net income from the business. When computing net income, owners:
 - (1) May deduct:
 - (a) business expenses;
 - (b) interest payments on loans (unless the expenses or loans are for business expansion or capital improvement); and
 - (c) depreciation computed on a straight-line basis.

NOTE: If net income from a business is negative, it would be shown as zero income. It would not be used to offset other income of the Family.

- (2) May NOT deduct:

- (1) principal payments on loans;
- (2) expenses for business expansion; or
- (3) outlays for capital improvements.

3-22. ALIMONY AND CHILD SUPPORT.

- a. For Alimony Received by a Member of the Family. Count the amount specified in a divorce settlement or separation agreement unless the applicant:

- (1) Certifies the income is not being provided; and
- (2) Has made reasonable effort to collect the amounts due, including filing with courts or agencies responsible for enforcing payments.

NOTE: Child support paid by a private source to the state child support enforcement agency can be passed on to the Family in different ways. These amounts must be counted as Annual Income. In some states this will be shown as part of the AFDC grant and in others it will be shown as a separate "pass-through" amount.

EXAMPLES:

EXAMPLES:

Standard Grant	\$427/month
Child Support	100/month
TOTAL RECEIVED	\$527/month

Standard Grant	\$427/month
\$50 "pass-through"	50/month
TOTAL RECEIVED	\$477/month

- b. Alimony or child support paid by a member of the Family is counted as income, even if it is garnished from wages.

EXAMPLE: Mr. Graevette pays \$150 per month in child support. It is garnished from his monthly wages of \$950. After the child support is deducted from his salary, he receives \$800. The owner must count \$950 as Mr. Graevette's monthly income.

3-23. INCOME RECEIVED BY A RESIDENT OF AN INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED OR FOR THE DEVELOPMENTALLY DISABLED (ICF/MR/DD). This not a HUD term. This title reflects the terminology used by state departments of mental health, developmental disabilities and substance abuse for facilities which receive Medicaid funds on behalf of their residents. Where Medicaid pays the ICF/MR/DD directly for services and rent and pays the resident only a small personal

allowance (e.g., \$50 per month), determine annual income as follows:

- a. Add the amount being paid directly to the facility on behalf of the tenant;
- b. Add all income the tenant receives from sources other than SSI (e.g., wages, training workshops, interest income, etc,) that is not excluded from income by Exhibit 3-5.
- c. Subtract the personal allowance the individual receives;

NOTE: SSI is reduced when the individual earns above a specified amount. If SSI is reduced, then the individual may request an interim recertification.

SECTION 3. Adjusted

Income

NOTE: This section does NOT apply to families receiving only BMIR assistance.

3-24. DEFINITION OF ADJUSTED INCOME. Adjusted income is annual income minus the allowances listed below. These allowances are explained in more detail in paragraphs 3-24 through 3-29.

- a. All families are eligible for any of the following allowances which are applicable to their circumstances:
 - (1) \$480 for each dependent as defined in paragraph 3-25.
 - (2) Child care expenses as defined in paragraph 3-26.
 - (3) Handicapped/Disability assistance expenses as defined in paragraph 3-27.
- b. If the head, co-head or spouse or sole member is age 62 or older or disabled or handicapped, two additional allowances of:
 - (1) \$400 per Family
 - (2) Medical expenses. See paragraph 3-28.

NOTE: A family may NOT designate a family member as head or co-head solely to become eligible for these additional benefits. The remaining member of a Family listed in paragraph b who is not 62 or older, handicapped or disabled is not eligible for this allowance.

3-25. ALLOWANCE FOR DEPENDENTS. Owners must deduct \$480 for each dependent. A dependent is any Family member who:

a. Is NOT a head, co-head, spouse, foster child, foster adult, live-in attendant, unborn child, or a child who has not yet joined the Family even if legal custody is currently being pursued.

b. Is:

(1) Younger than 18. (It includes children who normally live in the unit but who have been placed temporarily in foster care outside the home.)

NOTE: When more than one family shares joint custody (e.g., 50/50 custody) of a child and they both live in assisted housing, only one family can claim the dependent allowance for that child. If there is a dispute about which family should claim the dependant allowance for the child, the family should refer to available documentation (e.g., court order; IRS return showing which household claimed the child for income tax purposes).

OR

(2) Handicapped or disabled, as defined in Exhibit 2-1 of Chapter 2 of Handbook 4350.3.

OR

(3) A full-time student. The student must carry a subject load considered full-time by the educational institution attended. The institution may be a vocational school offering a diploma or certificate or an institution offering a high school diploma or college degree.

3-26. ALLOWANCE FOR CHILD CARE EXPENSES Applies ONLY to reasonable amounts paid for care of children (including foster children) UNDER AGE 13.

a. The following amounts must NOT be deducted as child care expense:

(1) Child support payments for children who do not live in the unit;

(2) Expenses for the care of a family member with handicaps or disabilities who is age 13 or older. (Paragraph 3-27 explains how to treat these expenses.)

b. Owners must deduct child care costs if:

- (1) Such care will enable a family member to:
attend vocational or academic courses; work;
or seek new employment after losing a job.
 - (2) No adult family member capable of providing
child care is available during the hours the
care is needed. This determination is made
by the family.
 - (3) The amount deducted is reasonable for the
hours and type of care provided.
 - (4) The amount is NOT paid to a family member
living in the household.
 - (5) The amount is not paid or reimbursed by an
agency or individual outside the household.
- c. If the individual or organization providing the
child care also cares for other family members,
the owner must prorate the total cost and allocate
a specific amount for the care of children under
age 13. The proration must be reasonable in terms
of the hours and type of care provided and the
number of people cared for.
- d. Limitation on Expenses. Any expense allowed to
enable a family member to work cannot exceed the
employment income derived because the care is
available. (If both child care and
handicap/disability assistance are needed to
enable a family member(s) to work, see paragraph
3-27f.) There is no such limitation on child care
expenses for seeking work or going to school.

NOTE: For full-time students who pay for child
care while they work, the maximum child care
allowance is \$480.

EXAMPLE: If someone goes to work and goes to
school, then the owner will have to pro-rate the
child care expense for each activity because the
limitation in paragraph d may apply to the
portion of child care that permits the individual
to work.

Ms. Bowren works 40 hours per week and then goes
to school several evenings a week. She earns \$8
per hour. Ms. Bowren pays Ms. Reilly \$2.50 per
hour for babysitting her school-age children
after school. Ms. Reilly watches the children
from 3:30 until 6:00 for 2 nights a week while
Ms. Bowren works and from 3:30 until 9:00 for 3
nights when Ms. Bowren goes to school. The child
care expenses are pro-rated as follows:

Ms. Bowren pays Ms. Reilly \$25.00 while she is at

work (2 1/2 hours x \$2.50 x 5 days per week) and \$22.50 while she is at school (3 hours x \$2.50 x 3 days), for a total of \$47.50. The child care that is attributed to her work (\$25) is limited to Ms. Bowren's employment income that is derived because of the child care, but the child care that is attributed to her going to school (\$22.50) is not limited by her employment income. Since the child care that permits Ms. Bowren to work (\$25) is less than her employment income that is derived because of the child care (\$100 [\$8.50 x 2 1/2 x 5]), the full amount of the child care expenses may be included in the child care allowance. The total child care allowance for Ms. Bowren is \$47.50.

- 3-27. ALLOWANCE FOR HANDICAP/DISABILITY ASSISTANCE EXPENSES. This paragraph applies ONLY IF a family member is HANDICAPPED or DISABLED as defined in Exhibit 2-1 of Chapter 2 of this handbook 4350.3.

NOTE: The Department intends to revise the regulations to refer to the term "disabled" instead of the term "handicapped". Where it is essential for consistency with existing HUD regulations or laws, this chapter will refer to "handicapped" but wherever possible it will use the preferred term, "disabled". Where some regulations have been updated and others have not, this chapter will refer to both terms, in an attempt to use the preferred term as much as possible, where such term is used in the governing statutes and regulations.

- a. The allowance is the LESSER of:
- (1) The amount by which total expenses for handicap/disability assistance exceed 3 percent of annual income; OR
 - (2) The employment income adult members will earn because the handicap/disability assistance is available. (See paragraph 3-27f for more guidance on how to impose this employment ceiling.)
- b. Handicap/disability assistance expenses include attendant care and auxiliary apparatus expenses for a family member with a handicap or disability that are:
- (1) Necessary to enable a family member (including the member with a handicap or disability) to be employed;
 - (2) Anticipated to be paid by the family in the 12 months following the effective date of the certification/recertification;

- (3) NOT paid or reimbursed by an outside source such as insurance, medicare or grants by a state agency or charitable organization; and
- (4) NOT paid to a family member living in the household.

NOTE: Family member does not include foster child, foster adult, live-in attendant or children of these persons.

- c. Attendant care includes, but is not limited to, home medical care, nursing services, housekeeping and errand services, interpreter for persons who are deaf or hard of hearing, and reader for persons with visual disabilities.
- d. Auxiliary apparatus includes, but is not limited to, wheelchairs, reading devices for persons with visual disabilities and equipment added to cars and vans to permit their use by the family member with a disability. These are items that are paid for by the applicant/tenant. This is not to be confused with "auxiliary aids" which are provided by owners, where necessary, under Section 504 of the Rehabilitation Act of 1973. (See Chapter 2 for these requirements).

NOTE: The term "auxiliary apparatus" is not defined by regulation. Exhibit 2-2, paragraph c, defines the term, "auxiliary aids", which are items that owners are required to provide, where necessary, to assure effective communication with individuals with disabilities under Section 504 of the Rehabilitation Act of 1973. Although the term "auxiliary aids" under Section 504 cannot be used to define "auxiliary apparatus", because that regulation applies only to Section 504, it may be useful information to HUD Field Office staff, Contract Administrators and owners. Note that the emphasis of paragraph c of Exhibit 2-2 is on communication aids which owners are required to provide. Therefore, when the referenced paragraph says that hearing aids, TDD's and seeing eye dogs [assistive animals] are personal items which owners are not required to provide, they could still be considered auxiliary apparatus for the purpose of Chapter 3's discussion of handicap/disability assistance expenses.

- (1) Example: Include payments on a specially-equipped van to the extent they exceed the payments that would be required on a car purchased for transportation of a person who does not have a disability.
- (2) The cost of maintenance and upkeep of an auxiliary apparatus is considered a handicap

disability assistance expense (e.g., the veterinarian costs and food costs of a service animal; the cost of maintaining the equipment that is added to a car but not the cost of maintaining the car).

- (3) If the apparatus is NOT used exclusively by the person with a disability, the owner must prorate the total cost and allow a specific amount for handicap/disability assistance.
- e. If the individual or organization providing attendant care for the member with a disability also provides other services for the family, the owner must prorate the total cost and allow a specific amount for attendant care. The allocation must be reasonable in terms of the hours and type of care (e.g., specialized medical care costs more than housekeeping services).
- f. When imposing the employment income ceiling required by paragraph 3-27a(2), owners must consider the following:

- (1) If the handicap/disability assistance enables more than one person to be employed, owners must consider the combined incomes of those persons.

EXAMPLE: If an auxiliary apparatus enables a person with a disability to be employed and frees another person to be employed, the allowance cannot exceed the combined incomes of those two people.

- (2) If child care enables a person(s) to work and handicap/disability assistance is also needed to enable that person(s) to work, the portion of employment income used to justify child care allowances for employment purposes may NOT be used to also justify handicap/disability assistance allowances.

EXAMPLE: If the family pays \$100/week for child care and \$100/week for handicap/disability assistance and the care and assistance enable an adult to work for \$150/week, the owner must not allow the full cost of both types of care. The total handicap/disability assistance allowance and child care allowance for employment purposes may not exceed \$150/week.

3-28. ALLOWANCE FOR MEDICAL EXPENSE. This allowance is permitted ONLY for Families whose HEAD, CO-HEAD, SPOUSE, or SOLE MEMBER is 62 or OLDER, HANDICAPPED

OR

DISABLED.

- a. The maximum amount of this allowance varies by whether the family has expenses for handicap/disability assistance.
 - (1) If the Family has no handicap/disability assistance expenses, the allowance for medical expenses is the amount by which total medical expenses exceed 3 percent of annual income.
 - (2) If the Family has expenses for both handicap/disability assistance and medical care, special calculations are required to compute this allowance. These calculations are explained in paragraph 3-29.
- b. "Total medical expense" includes all medical expenses that are:
 - (1) anticipated to be paid by the Family in the 12 months following the effective date of the certification/recertification AND
 - (2) NOT paid by an outside source--e.g., insurance, medicare or grants by a state agency or charitable organization.
- c. Third parties are sometimes hesitant to estimate future medical needs. To address this, anticipated medical expenses may be based on the expenses the Family paid in the 12 months preceding the effective date of the certification/recertification LESS any one-time expenses that are not expected to reoccur.

EXAMPLE:

Mr. and Ms. Crumpler had a total of \$2,932 in medical expenses last year. \$932 of this amount covered Mr. Crumpler's gall bladder surgery. The owner could use these past expenses as a basis for determining the Crumpler's anticipated medical expenses by deducting the one-time expenses related to the gall bladder surgery (i.e., \$2,983 minus \$932 equals \$2,000).

In a continuation of this example, Ms. Crumpler paid \$850 for unexpected medical services in the sixth month of the recertification period. Because these costs were not considered in determining their medical expenses at their last annual recertification, the Crumplers should report this additional medical expense

when they incur it. Once they report this expense, the owner will perform an interim recertification in accordance with Chapter 5.

continued--

Example continued--

The interim recertification will consider these expenses through the balance of the recertification period. If it is a one-time expense, it would not be used at the next annual recertification to estimate their future medical expenses, unless they are continuing to make payments on it.

Regulatory definition of Medical Expenses (24 CFR Parts 215.1, 236.2 and 813.102):

Those medical expenses, including medical insurance premiums, that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance.

- d. If the special apparatus or attendant care for a family member with a disability enables the member with a disability or any other family member to work, do NOT count them as medical expenses. Instead, count the expense as a handicap/disability assistance expense under paragraph 3-27.
- e. Figure 3-5 provides guidance to assist HUD offices, Contract Administrators and owners in determining which expenses should be considered as medical expenses. There is no specific regulatory or statutory guidance on what is considered medical expenses.
 - (1) In general, Figure 3-5 lists expenses associated with the diagnosis and treatment of disease. It includes the services and recommended treatments of recognized health care professionals. It also includes medically needed equipment and assistive animals and the upkeep of both. Examples of equipment include: hearing aids, walkers, artificial limbs, eyeglasses.
 - (2) The following would not be considered medical expenses:
 - (a) services or procedures that are not medically necessary:
 - (b) services; aids; apparatus that cannot be construed as medical expenses (i.e., readers

or interpreters for persons with visual disabilities or for persons who are hard of hearing or deaf; housekeeping services).

NOTE: These expenses may be handicapped/disability assistance expenses in paragraph 3-27.

3-29. SPECIAL CALCULATIONS FOR FAMILIES HAVING BOTH MEDICAL AND HANDICAP/DISABILITY ASSISTANCE EXPENSES. (These are families whose Head, Co-head or Spouse is either 62 years of age or older, handicapped or disabled.)

- a. If a family has both medical expenses and handicap/disability assistance expenses, the amount deducted is limited to the amount by which the total of the two expenses exceeds 3 percent of annual income.

NOTE: Handicap/disability assistance expenses cannot exceed the income generated by the expenses.

- b. The 3 percent of annual income must first be deducted from handicap/disability assistance expenses and any remainder then deducted from medical expenses.

EXAMPLE #1: Family has \$1000 in medical expenses and \$500 in expenses for handicap assistance. \$4000 of annual income is derived because the handicap care is available. Annual income is \$20,000. 3 percent of annual income is \$600.

Total Handicap/Disability Assistance Expense:	\$ 500
	- 600
Minus 3% of Annual Income:	\$(100)
Handicap/Disability Allowance	\$ 0
Total Medical Expense:	\$1000
Minus: Balance of 3% of annual income	- 100
Allowable Medical Expense	900

EXAMPLE #2: Family has \$2000 in medical expenses and \$3500 in expenses for handicap/disability assistance. \$2400 of annual income is derived because the handicap/disability assistance is available. Annual income is \$20,000. 3 percent of annual income is \$600.

Total Handicap Assistance Expense:	\$3500
Minus: 3% of annual income	- 600
	2900

FIGURE - 3-5
EXAMPLES OF MEDICAL EXPENSES

MEDICAL EXPENSES

Services of
recognized health care professionals

Services of health care facilities;
Laboratory fees, X-rays and
diagnostic tests, blood, oxygen

Medical insurance premiums

Prescription and Non-prescription
medicines

Transportation to/from treatment

Medical care of permanently
institutionalized family member IF
his/her income is included in Annual
Income

Dental treatment

Eyeglasses, contact lenses

Hearing aid, wheelchair, walker,
artificial limbs
Attendant care or periodic

Attendant care or periodic medical
care

Payments on accumulated medical
bills

MAY INCLUDE 1/

Services of physicians, nurses,
dentists, opticians, mental health
practitioners, chiropractors

Hospitals, health maintenance
organizations (HMO's), out-patient
medical facilities, and clinics

Expenses paid to an HMO; medicaid
insurance payments which have not
been reimbursed

aspirin; antihistamine;

Actual cost (e.g., bus fare) or if driving by car, a mileage rate based on IRS rules or other accepted standard

Fees paid to the dentist; x-rays; fillings, braces, extractions, dentures

Purchase and upkeep (e.g., additional utility costs to tenant because of oxygen machine [tenant paid utilities only])

Nursing services, assistive animal and its upkeep

Scheduled payments

1/ or any other medically-necessary service, apparatus or medication, as documented by third party verification.

FIGURE 3-6 CAN THE EXPENSES ATTRIBUTED TO AN INDIVIDUAL BE CONSIDERED IN DETERMINING ALLOWANCES?

NOTE: (Some allowances apply only to certain households. See paragraph 3-24.)

INDIVIDUAL	ALLOWANCE			MEMBER OF
FAMILY				
	Depend ent	Child Care	Hand Asst. Exp.	Med. Exp.
Head/Co-Head YES			YES	YES
Spouse YES			YES	YES
Other Adult YES			YES	YES
Dependent - (One YES of the following who is not the Head, Co-head or Spouse) - Age 17 or younger - Handicapped or disabled - Full time student,	YES/1	YES/2	YES	YES

regardless of age
- child pending
adoption and
lives in unit

Foster Child YES/2

Foster Adult

Unborn Child
/3

Child Pending
/3

Adoption but does
not live in unit

Live-in Attendant

1/ Persons under the age of 18 who are the Head, Co-head or Spouse are not

eligible for the dependent allowance.

2/ The child care allowance applies only to children under the age of 13.

3/ Unborn Children and children who are in the process of being adopted (who do

not live in the unit) are considered household members for purposes of determining unit size and income limits but do not qualify the family for any

adjustments to income nor is their unearned income counted in determining annual income.

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3.29.A EXCLUSION OF INCOME RECEIVED UNDER TRAINING PROGRAMS IN MULTIFAMILY HOUSING PROGRAMS.

- a. Background. The Department recognizes the need to prepare tenants receiving rent subsidy in multifamily projects for long-term self-sufficiency, independence, and increased economic opportunity, to aid both welfare reform and Neighborhood Networks.

In an effort to encourage and assist tenants toward long-term upward mobility, we provide clarity on the application and interpretation of the regulations at 24 CFR 813.106(c)(8)(i) which allow exclusion of income received under training programs funded by HUD. It is anticipated that the costs of these exclusions will be offset by long-term future savings to the Federal Government, because the exclusions will increase the number of economically self-sufficient families residing in assisted housing.

- b. Project Eligibility. All insured and noninsured projects assisted under Section 215 Rent Supplement Payments, Section 236 Mortgage Insurance and Interest Reduction Payment for Rental Projects, including Section 236 Rental Assistance Payments, and Section 8 of the United States Housing Act of 1937.
- c. Training Programs Funded by HUD. The Office of Multifamily Housing does not have special funds designated for job training programs.

However, owners and/or management agents may request to use project funds and/or the release of funds from the Residual Receipts account to underwrite all or a portion of the cost of developing, maintaining, and managing a job training program for project residents if funds are available. The Field Office will make the determination if the job training program may be approved, and if project funds are sufficient to fund the job training program and maintain the physical and financial integrity of the project. Job training programs may either be on-site at the project or off-site. For example, job training programs that have partnerships with local colleges, community based organizations, or local

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business, may have in-house job training programs designed for project residents.

Funds that an owner may choose to use to underwrite a job training program may include Section 8 funds, Community Development Block Grant funds, housing authority funds, modernization funds, etc. These funds may be used to cover the costs of various components of a job training program, i.e., course materials, computer software, computer hardware, personnel costs, etc.' Also, contractors and subcontractors, in connection with work performed under a Flexible Subsidy contract, may elect to hire project residents to perform certain skills required under the contract. if the employment of the project residents was pursuant to an apprenticeship program, this could constitute a training program using HUD funds, and income received by the tenants in the apprenticeship program will qualify as an exclusion from income.

Participation in a job training program is voluntary on the part of the owner and tenant. However, in the context of Neighborhood Networks

(see HBK 4381.5 REV-2, CHG-2, Chapter 9) and Welfare Reform, income exclusions for job training are a good incentive for getting people to work.

- d. Criteria For Determining Income Received From Training Programs. Amounts received such as stipends, wages, transportation payments, and child care vouchers received, pursuant to the training program, are excluded from annual income for the purpose of calculating rent. Income received as compensation for employment is excluded only if the employment is a component of a job training program. Amounts excluded under this provision may include, but are not limited to, compensation received during:
 - o On the job training programs.
 - o Apprenticeship programs.
 - o Third-party employment

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The exclusion of income earned is allowed only during the job training program, or training oriented employment, but not during employment secured or maintained once all training has been completed. Any additional compensation received during the training period that is unrelated to the job training program (i.e., income received prior to participating in the job training program, e.g., welfare benefits, social security payments, etc.) would not be excluded from income.

Acceptable training-oriented employment for the purposes of excluding income for calculating rent must be distinguished from ordinary employment by its characteristics of 1) the activities occur under a training program that has clearly defined goals and objectives; and 2) the training program is for a pre-determined limited time period, and initially, not to exceed one year.

It is acceptable that the program use both HUD funds and non-HUD funds, but HUD funding must be a material portion of the total funding designated for the training program. Owners/management agents are encouraged to seek partnerships with local service providers and to mobilize support and participation from corporate and community based organizations to provide key components of the training program.

- e. Local HUD Office Review. Requests to use HUD funds to underwrite all or a portion of a job training program must be submitted to and approved by the Local HUD Field Office.

Field Offices must verify that a material portion of the job training program is funded by HUD and that the employment activities are part of a training program. Owners and management agents should be required to submit regular reports detailing the operation of the program, funding sources received from other resources, the number of tenants participating in the program, etc. Frequency and content of the reports will be determined by the Field Office.

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At the conclusion of the pre-determined time period for the job training program, Field offices will review it to determine if it is meeting its defined goals, and if it would be advantageous to the tenants and to the Department to continue the program. However, the training program may only be extended for no more than one additional year. The total training program will not exceed two years.

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SECTION 4. Verification Requirements and Procedures

3-30. REQUIREMENTS TO VERIFY INFORMATION PROVIDED BY APPLICANTS AND TENANTS

- a. Owners must verify all income, expenses, assets, household characteristics and circumstances that affect eligibility or tenant rent. This must be done before the owner transmits the tenant data to HUD or the Contract Administrator.
- b. Written verification directly from the source must be obtained when possible.

REGULATORY REFERENCES:

24 CFR 813.109, Definition of Income, Income Limits, Rent and Reexamination of Family income for the Section 8 Housing Assistance Payments Programs and Related Programs.

24 CFR 215, Rent Supplement Payments, particularly 215.55, Reexamination of Family Income and Composition.

24 CFR 236, Section 236 Mortgage Insurance and Interest Reduction Payment for Rental Projects, particularly Section 236.80, Reexamination of Income and Section 236.760, Change in Tenant Income Status.

24 CFR 200.1001, Disclosure of Verification of Social Security Numbers by Applicants and Participants in Assisted Mortgage and Loan Insurance Programs

Continued on the next page--

REGULATORY REFERENCES - Continued

24 CFR 200.1201, Procedures for Obtaining Wage and Claim Information about Applicants and Participants in HUD's Assisted Mortgage and Loan Insurance and Related Programs from State Wage Information Collection Agencies. This part covers the Rent Supplement program as well as the rental assistance programs under the Sections 221(d)(3) and 236 programs

24 CFR 760, Procedures for Obtaining Wage and Claim Information about Applicants and Participants in HUD's Section 8 and Public Housing Programs from State Wage Information Collection Agencies (This part covers the Section 8 programs.)

24 CFR 16, Implementation of the Privacy Act

3-31. ACCEPTABLE METHODS OF VERIFYING INFORMATION ABOUT TENANTS AND APPLICANTS. Three methods are permitted:

- a. Verification by a third party. Written verification is preferred.
 - (1) Owners must follow paragraph 3-34 in obtaining the consent of the applicant or tenant for the release of information about them from a third party to the owner.
 - (2) Owners must send verification forms directly to the source, not through the applicant.
 - (3) When written verification is not possible, the next most acceptable form is direct contact with the source, in person or by telephone. The owner must document the conversation in the applicant's/tenant's file including all information that would have been included in a written verification.
- b. Review of Documents

- (1) Owners may use documents submitted by the applicant or tenant when:
 - (a) Information does not require third-party verification (such as birth certificates or adoption papers verifying household membership); or
 - (b) Third-party verification is impossible or delayed beyond four weeks of the initial request.
 - (2) The owner must place in the family's file either copies of documents or a list of the documents and the information on them.
- c. Applicant/Tenant Certification. Owners may accept an applicant's notarized statement or signed affidavit if:
- (1) Such certifications are specifically authorized by this handbook. (See Appendix 4.) OR
 - (2) Other preferred forms of verification cannot be obtained.
- d. Appendix 4 provides a listing of acceptable sources and methods of verifications.

3-32. EFFECTIVE TERM OF VERIFICATIONS.

- a. For Annual Recertifications:
- (1) Information Not Subject to Change. (Example: Verification that a person is age 62 or older.) Owners need to verify this information only ONCE.
 - (2) Information Subject to Change. These verifications are valid for 90 days from the date the owner received them. If the information is orally updated by the source, owners may use these verifications for an additional 30 days. Owners may not rely on verifications that are more than 120 days old. If a family has not been admitted or recertified by then, the owner must obtain new verifications. The time-frames in this paragraph are not provided by regulation.
- b. For Interim Recertifications: Owners must ask the tenant to identify all income, expenses or circumstances that have changed since the last interim or annual recertification. Owners need verify only information that has changed.

3-33. SUGGESTED VERIFICATION PROCEDURES. Owners should:

- a. Maintain a checklist for each tenant which documents verification efforts and tracks progress. See Appendix 7 for a sample checklist.
- b. Develop standard verification consents for all information that must be verified. See paragraph 3-36, Requirements for Consents for the Release of Information. See also Appendix 4, Acceptable Forms of Verification - Relevant Information to Verify with a Third Party.
- c. Make personal contacts with large employers and public agencies from whom a large number of tenants receive income. Explaining program requirements and giving advance notice may help them to respond quickly.

3-34. REQUIREMENTS FOR TENANTS AND APPLICANTS TO SIGN VERIFICATION CONSENTS. Applicants and Tenants must sign the following documents that provide their

consent

for the release of information about them:

- a. The form HUD 9887, Notice and Consent to the Release of Information, in Appendix 3. This form allows HUD and a Public Housing Agency to verify information with IRS, the Social Security Administration and the state agency that keeps wage and unemployment compensation claim information.
- b. Form HUD 9887-A, Applicant's/Tenant's Consent to the Release of Information - Verification by Private Owners of Information Supplied by Individuals Who Apply for Housing Assistance in Appendix 3. This form explains the purposes and uses of individual verification consents.

NOTE: The person(s) who is authorized to perform verifications for the housing owner must also sign the form HUD 9887-A.

- c. The individual verification consents prepared by the owner in accordance with Section 4 of Chapter 3, Verification Requirements and Procedures, and

Appendix

4, Acceptable Forms of Verifications.

3-35. INFORMATION TO APPLICANTS AND TENANTS ABOUT THE CONSENTS THAT THEY SIGN.

- a. Owners must provide every family with a copy of:
 - (1) The HUD Fact Sheet entitled, Verification of

Information Provided by Applicants and Tenants of Assisted Housing. It is printed as an attachment to form HUD 9887 and 9887-A in Appendix 3.

(2) The signed form HUD 9887, and

(3) The signed form HUD 9887-A.

b. It is suggested that at the same time the owner provides a copy of the fact sheet that the Owner also provide applicants and tenants with a copy of the Resident Rights and Responsibilities brochure. If the owner does not have copies to provide, s/he may advise tenants and applicants that they may obtain copies by calling the HUD National Multifamily Clearinghouse at 1-800-685-8470. Owners may obtain bulk copies of this brochure by calling this number.

c. Upon request by the family, this paragraph requires owners to provide the family with a copy of the relevant verification consents which the adult family members sign.

NOTE: If the owner does not have access to a photocopy machine, the tenant or applicant may sign an additional form HUD 9887, form HUD 9887-A and applicable verification consents.

d. In the event that an individual cannot read and/or sign a consent form due to a disability, the owner/manager shall make a reasonable accommodation in accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing instructions at 24 CFR Part 8. See also Chapter 2 of this handbook.

Examples of reasonable accommodations:

0 provision of forms in large print

0 readers for persons with visual disabilities

0 use of designated signatory (i.e., another person authorized to sign on the applicant's or tenant's behalf); and

0 completion of a home visit if the individual's disability prevents him/her from coming to the office to complete forms.

e. The owner must inform the individual, or a third party which s/he designates, of the findings made on the basis of information verified under the

individual verification consents. The owner must give the individual the opportunity to contest such findings in accordance with Chapter 5 of the Handbook 4350.3 and the lease. See also paragraph 3-38, Inconsistent Information obtained Through Verifications. However, for information received under the form HUD 9887, HUD or the PHA may inform the individual of these findings.

3-36. REQUIREMENTS FOR CONSENTS FOR THE RELEASE OF INFORMATION, INCLUDING THE FORM HUD 9887, 9887-A AND THE INDIVIDUAL VERIFICATION CONSENTS

- a. State Privacy Laws. Owners must comply with State privacy laws concerning the information they receive from third parties about applicants and tenants. These laws generally require confidentiality and restrict the uses of this information.
- b. Federal Laws. As required by Federal law, HUD limits the information that an owner can receive about an applicant or tenant to that information which is necessary in determining eligibility or level of assistance.
- c. Required Content for Individual Verification Consents. Appendix 4 contains the required elements for individual verification consents, including customer protections. This appendix also lists examples of information that is relevant and necessary for determining an individual's eligibility for assistance or level of benefits. The following appendices also provide information on individual consents:
 - (1) Appendix 3 provides copies of the Applicant/Tenant Fact Sheet and the forms HUD 9887 and 9887-A.
 - (2) Appendix 5 provides a sample verification consent which contains all of the consumer protection provisions and required elements of Appendix 4.
 - (3) Appendix 6 provides sample verifications of a person's disability or handicap required for determining eligibility to a particular project for persons with disabilities or handicap and determining eligibility for certain allowances based upon disability or handicap.
- d. Duration of the consent. The individual verification consents and the forms HUD 9887 and 9887-A expire 15 months after they are signed. This allows for them to be active during the 90

days preceding the certification period and to remain active throughout the entire 12-months of the certification. There are differences between the form HUD 9887 and the individual verification consents on the periods during which they are valid:

- (1) Form HUD 9887. This form is valid for the entire 15 month period.
- (2) The form HUD 9887-A and the individual verification consents can be used during the 90 days before the certification period. The consents may also be used during the certification period, but only in cases where the owner receives information indicating that the information the tenant has provided may be incorrect. Other uses are prohibited.

e. Length of time covered by the consent

- (1) Form HUD 9887. The information covered by the form HUD 9887 is restricted as follows:
 - (a) SWICA. Information received from SWICAs is limited to wages and unemployment compensation the applicant or tenant received during period(s) within the last 5 years s/he has received assisted housing benefits.
 - (b) IRS and Social Security Administration. Data from IRS and SSA cover only the current return and W-2 only.

NOTE: If the IRS or SSA matches reveal that the tenant may have supplied inconsistent information, HUD or the PHA may request the tenant's consent to acquire information up to 5 years old during periods in which the tenant was receiving assistance.

- (2) Individual Verification Consents. The information covered by these consents is restricted as follows:
 - (a) Routine verifications are restricted to information that is no older than 12 months.
 - (b) However, if the owner receives inconsistent information and has reason to believe that the information the applicant or tenant has supplied is incorrect, then the owner can obtain information up to 5 years old during

periods in which the individual was receiving assistance, as provided by the form HUD 9887-A.

f. The use of photocopies.

- (1) Form HUD 9887. HUD and the PHA must certify that an original signature is on file before they can initiate matching with the SWICA, IRS and Social Security. The use of photocopies is unnecessary.
- (2) Individual Verification Consents. Generally, the owner can accomplish verifications by using consents containing original signatures. If it is the owner's experience that a particular third party fails to respond to the first request and a second notice is usually required, the owner may ask the applicant or tenant to sign a second consent to be kept in the file in case it is needed. The signed form HUD 9887-A states that in the absence of an original signature, the owner can use a photocopy of the consent.

g. Confidentiality of Applicant/Tenant Information. Any employee of the owner who fails to keep tenant information confidential is subject to the enforcement provisions of any State or Federal privacy act and subject to enforcement actions by HUD. Also, any applicant or participant affected by negligent disclosure or improper use of information may bring civil action for damages, and seek other relief, as may be appropriate, against the employee. Penalties for using consents are described on the forms HUD 9887 and 9887-A.

3-37. OWNER ACTIONS WHEN AN APPLICANT OR TENANT FAILS TO SIGN THE FORM HUD 9887, THE FORM 9887-A OR THE RELEVANT INDIVIDUAL VERIFICATION CONSENTS.

- a. If an adult member of the family, due to extenuating circumstances, is unable to sign the required consents on time, the owner may document the file as to the reason for the delay and the specific plans to obtain the proper signature as soon as possible.
- b. An individual's failure to sign any consent may result in the denial of assistance or termination of assisted housing benefits. If an applicant is denied assistance for this reason, the owner must follow the notification procedures in Chapter 2.

If a tenant is denied assistance for this reason, the owner must follow the procedures set out in the lease which require that the tenant pay the higher, HUD-approved market rent for the unit for failure to provide recertification information. (See also Chapter 5.)

3-38. INCONSISTENT INFORMATION OBTAINED THROUGH VERIFICATIONS. An owner cannot take any action to terminate, deny, suspend or reduce any assistance an applicant or tenant receives based on information obtained through a consent until the owner has independently verified information relating to:

- a. The amount of the wages, other earnings or income, or unemployment compensation provided to Family members;
- b. Whether each applicable family member actually received (or had) access to such income, wages, earnings or other benefits for his/her own use; and
- c. The period or periods when, or with respect to which, the individual family members actually received such wages, earnings or benefits.

NOTE: ANY ACTIONS TO DENY, SUSPEND OR REDUCE ASSISTANCE MUST BE MADE IN COMPLIANCE WITH CHAPTER 2 (APPLICANTS) OR CHAPTER 5 OF HANDBOOK 4350.3 AND THE LEASE (TENANTS).

3-39. INFORMATION RELATING TO VERIFICATIONS TO BE KEPT ON FILE

- a. Owners must keep the following documents in the tenant file at the project site:
 - (1) the original, signed form HUD 9887;
 - (2) the original, signed form HUD 9887-A; and
 - (3) a copy of the signed individual verification consents.
 - (4) third party verifications
- b. Owners must maintain documentation of all verification efforts for at least three years after the effective date of the certification or recertification.
- c. Owners must keep applicant and tenant information in a location that assures that it is kept confidential. See paragraph 36g and the forms HUD 9887 and 9887-A for consequences of negligent disclosure or improper use of applicant and tenant information.

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EXHIBIT 3-1

4350.3 CHG-27
EXHIBIT 3-1

EXHIBIT 3-1

DEFINITIONS OF TERMS USED IN
CHAPTER 3 AND
THE 59 DATA REQUIREMENTS

This Exhibit summarizes the definitions of several regulatory terms that generally apply to the following programs: Section 8, Rent Supplement, RAP, Sections 236 and 221(d)(3)BMIR. For additional definitions and for full descriptions of the definitions listed below, see the relevant regulation at either 24 CFR Parts 215, 221, 236, or 813. Chapter 3 also describes certain terms that deal with Annual Income and Adjusted Income (e.g., what is included in annual income; what is excluded from annual income; allowances). Exhibit 2-1 of this handbook defines terms relating to eligibility for assistance.

NOTE: See Exhibit 3-2 for definitions used with the Section 162 and Capital Advance Programs (PAC and PRAC).

1. Assisted Rent. Any rent less than the market rent defined in paragraph 7. Includes Section 236 rents that are greater than the Basic Rent. See the definition of assisted tenant in paragraph 5-2.
2. Assisted Tenant. This term is defined in paragraph 5-2. It is repeated here: A tenant who pays less than the market rent. Includes tenants:
 - receiving Rent Supplement, RAP or Section 8 assistance
 - paying the BMIR contract rent
 - paying the Section 236 basic rent
 - paying above basic rent, but less than market rent, in a Section 236 project (which generates "excess income").
3. Assistance Payment. The amount HUD pays the owner for a unit occupied by a Section 8, RAP or Rent Supplement tenant. It includes HUD's share of the contract rent and any utility reimbursement due the tenant. It is the gross rent for the unit minus the Total Tenant Payment (TTP).
4. Contract Rent. The rent HUD or the Contract Administrator has approved for this unit type. The rent may be paid by the tenant, HUD or both. The Contract Rent is the Section 8 Contract Rent, the Section 236 Basic Rent, The Section

221(d)(3) BMIR Unit Rent or the Rent Supplement Unit Rent, as applicable. Obtain this amount from the project's Rental Schedule (Form HUD-92458) or HAP Contract.

5. Dependent. A member of the Family household (excluding foster children) other than the Family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a Full-time student.
 6. Foster Adult. A foster adult is usually an adult with a disability who is unrelated to the tenant family and who is unable to live alone.
 7. Full-time Student. A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.
 8. Gross Rent. The total of the Contract Rent plus the Utility Allowance. If there is no utility allowance, Contract Rent equals Gross Rent. It is the total monthly cost of housing an eligible family.
 9. Income Limits. HUD establishes Very low-income and Low-income limits that are used to determine if assisted housing applicants qualify for admission to HUD-assisted programs. these income limits are based on HUD estimates for area median family income with certain statutorily permissible adjustments.
 10. Live-in Aide-- is a person who resides with an Elderly, Disabled, or Handicapped person(s) and who--
 - (a) Is determined to be essential to the care and well-being of the Person(s);
 - (b) Is not obligated for the support of the Person(s); and
 - (c) Would not be living in the unit except to provide the necessary supportive services.
- NOTE: See all the discussion of live-in aid in Chapter 2.
11. Low-income Family. A Family whose Annual Income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.
 12. Market Rent. The rent HUD authorizes the owner to collect from families ineligible for assistance. For Section 236 units, the market rent is shown on the project's HUD-approved rent schedule. For Rent Supplement, Section 202 and Section 8 units, the market rent is the same as the contract rent. For BMIR units, market rent varies by whether the project is a rental or cooperative.

- a) BMIR Rentals. Market rent equals 110 percent of the BMIR Contract Rent.
 - b) BMIR Cooperatives. Market rent equals the contract rent plus any surcharge established by the cooperative and approved by HUD. If the cooperative did not receive HUD approval of a plan for surcharging its over-income members, market rent equals 110% of the Contract Rent.
13. Pre-1984 Definition of Minor (For use only when a tenant's rent increases are still limited under law using the special worksheet calculations of the 59 Data Requirements. Use the definition of minor provided in this paragraph when completing Item B-9 of Worksheets D, F and G. This definition is excerpted from paragraph 2-6 of Handbook 4350.3 dated 11/81:
- "The term "Minor" includes persons under 18 years of age (age 17 and younger) other than the head of household or spouse and persons aged 18 and over who are full-time students. Neither the head of household nor spouse may ever be counted as a minor. Foster children are counted as family members for establishing appropriate unit size but not counted as minors for the purpose of determining the Tenant's income or rent."
14. Project. In electronically transmitting certification data, "project" includes buildings located on adjacent sites and managed by one project, even if the buildings have separate mortgages and/or project numbers. See the 59 Data Requirements in Appendix 11 on how to process unit transfers.
15. Tenant Rent. The amount payable monthly by the Family as rent to the Owner (including a PHA).
- a. Where all utilities (except telephone) and other essential housing services are supplied by the Owner, Tenant Rent equals Total Tenant Payment.
 - b. Where some or all utilities (except telephone) and other essential housing services are not supplied by the Owner and the cost of these utilities and services are not included in the amount paid as rent to the Owner, Tenant Rent equals Total Tenant Payment less the Utility Allowance.
16. Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward the gross rent. Total Tenant Payment is computed in accordance with the formula in Exhibit 3-3.
17. Utility Allowance. HUD's or the contract administrator's estimate of the average monthly utility bills (except

telephone) for an energy-conscious household. This estimate considers only utilities paid directly by the tenant. If all utilities are included in the rent, there is not utility allowance. Utility allowances vary by unit type and are listed on the project's rent schedule or HAP contract.

18. Utilities Attributable to the Unit. (Applies only to RAP units.) HUD's estimate of the average monthly utilities (except telephone) that will be consumed by an energy conscious household and paid by the project. This concept is used only in the RAP formula that was in effect prior to May 1, 1983.
19. Utility Reimbursement. The amount, if any, by which the Utility Allowance exceeds the Family's Total Tenant Payment.
20. Very-low Income Family is a Low-income Family whose Annual Income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.
21. Welfare Assistance. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, state or local government.
22. Welfare Rent. This concept is used for Section 8 and RAP tenants who receive welfare assistance on an "AS-PAID" basis. (See the discussion of "as-paid" at the end of Exhibit 3-3, Tenant Rent Formulas.) Welfare rent is used also for PAC and PRAC tenants under Exhibit 3-2.
 - 1) If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities--NOT the amount the family is receiving at the time the certification or recertification is being processed.
 - 2) If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow. (See example at the end of Exhibit 3-3.)

4350.3 CHG-27
EXHIBIT 3-2

4350.3 CHG-27
EXHIBIT 3-2

EXHIBIT 3-2
DEFINITIONS OF TERMS USED IN
CHAPTER 3 AND
THE 59 DATA REQUIREMENTS

Chapter 3 also describes certain terms that deal with Annual Income and Adjusted Income (e.g., what is included in annual income; what is excluded from annual income; allowances). Exhibit 2-1 of this handbook defines terms relating to eligibility for

assistance.

NOTE: See Exhibit 3-1 for terms used in other programs covered by Handbook 4350.3.

SECTION 162 AND CAPITAL ADVANCE PROGRAMS (PAC AND PRAC)

(Section 202 Projects for Nonelderly
Handicapped Families and Individuals
Section 162 Assistance - PAC)

Additional References:

24 CFR 885.700

Handbook 4571.1. Rev-2, 4571.2
through 4571.5

1. Contract Rent. The total amount of rent specified in the PAC as payable by HUD and the family to the Borrower for an assisted unit or residential space.
2. PAC (Project Assistance Contract). The contract entered into by the Borrower and HUD setting forth the rights and duties of the parties with respect to the project and the payments under the PAC.
3. Project. In electronically transmitting certification data, "project" includes buildings located on adjacent sites and managed by one project, even if the buildings have separate mortgages and/or project numbers. See the 59 Data Requirements in Appendix 11 on how to process unit transfers.
4. Project Assistance Payment. The payment made by HUD to the Borrower for assisted units as provided in the PAC. The payment is the difference between the contract rent and the tenant rent. An additional payment is made to a family occupying an assisted unit in an independent living complex when the utility allowance is greater than the total tenant payment. A project assistance payment, known as a "vacancy payment", may be made to the Borrower when an assisted unit (or residential space in a group home) is vacant, in accordance with the terms of the PAC.
5. Tenant Rent. The amount payable monthly by the Family as rent to the Owner (including a PHA).
 - a. Where all utilities (except telephone) and other essential housing services are supplied by the Owner, Tenant Rent equals Total Tenant Payment.
 - b. Where some or all utilities (except telephone) and other essential housing services are not supplied by the Owner and the cost of these utilities and services are not included in the amount paid as rent to the Owner, Tenant Rent equals Total Tenant Payment less the Utility Allowance. NOTE: This is the same definition of "Tenant Rent" as in Exhibit 3-1.

6. Total Tenant Payment. The total amount the HUD rent formula requires the tenant to pay toward the gross rent. Total Tenant Payment is computed in accordance with the formula in Exhibit 3-3. NOTE: This is the same definition of "Total Tenant Payment" found in Exhibit 3-1.
7. Utility Allowance. HUD's or the contract administrator's estimate of the average monthly utility bills (except telephone) for an energy-conscious household. This estimate considers only utilities paid directly by the tenant. If all utilities are included in the rent, there is not utility allowance. Utility allowances vary by unit type and are listed on the project's rent schedule or HAP contract. NOTE: This is the same definition of "Utility Allowance" found in Exhibit 3-1.
8. Utility Reimbursement. The amount, if any, by which the Utility Allowance exceeds the Family's Total Tenant Payment. NOTE: This is the same definition of "Utility Reimbursement" found in Exhibit 3-1.

(Supportive Housing for the Elderly
and Supportive Housing for
Persons with Disabilities)

PRAC

Additional References:

24 CFR 889.105 and 890.105
Notice H 93-67 dated 9-30-94
Handbook 4571.1. Rev-2, 4571.2
through 4571.5

1. Section 8 Very Low Income Limits. This limit is 50% of median income.
2. PRAC Operating Rent. The total of the Contract Rent plus the Utility Allowance. If there is no utility allowance, Contract Rent equals Gross Rent. It is the total monthly cost of housing an eligible family.
3. PRAC (project rental assistance contract). The contract entered into by the Owner and HUD setting forth the rights and duties of the parties with respect to the project and the payments under the PRAC.
4. Project. For purposes of TRACS submissions, "project" includes buildings located on adjacent sites and managed by one project, even if the buildings have separate mortgages and/or project numbers. See the 59 Data Requirements in Appendix 11 on how to process unit transfers.
5. Project Rental Assistance Payment. The payment made by HUD to the Owner for assisted units as provided in the PRAC. The payment is the difference between the total tenant payment and the HUD-approved per unit operating expenses except for

expenses related to items not eligible under design and cost provisions. An additional payment is made to a household occupying an assisted unit when the utility allowance is greater than the total tenant payment. A project rental assistance payment, known as a "vacancy payment", may be made to the Owner when an assisted unit is vacant, in accordance with the terms of the PRAC.

6. Tenant Payment to Owner. This equals total tenant payment less utility allowance, if any.
7. Total Tenant Payment/Resident Rent Payment (rent and utilities). Each family or individual who receives PRAC subsidy must make a total tenant payment of 30% of adjusted income, 10 percent of gross income or Welfare Rent, whichever is greater for housing costs, i.e., rent and utilities. In some cases, a resident's monthly rent payment may exceed the PRAC operating rent. As with HAP contracts:
 - a) The monthly amount a resident pays the owner/manager should be the Total Tenant Payment less any HUD-approved utility allowance the tenant pays, and
 - b) The resident may receive a utility reimbursement from the owner/manager if the resident's Total Tenant Payment is less than the HUD-approved utility allowance.
8. Payment of Utility Reimbursement. A project rental assistance payment will be made to a household occupying an assisted unit when the household is responsible for paying the cost of all utilities (except telephone) and such costs exceed the household's tenant payment. The Owner may make the payment jointly to the household and the utility company, or, if the household and utility company consent, directly to the utility company.
9. Total Tenant Payment. The tenant payment made by the household to the Owner to cover its housing costs, including the cost of all utilities (except telephone).
10. Utility Allowance (Part 890 - Supportive Housing for Persons with Disabilities). This is an amount equal to the estimate made or approved by HUD of the monthly costs of a reasonable consumption of utilities (except telephone) for the unit by an energy-conservative household of modest circumstances, consistent with the requirements of a safe, sanitary and healthful living environment. A utility allowance is used in cases where the cost of utilities (except telephone) is the responsibility of the household and not included in the tenant payment.
11. Utility Allowance (Part 889 - Supportive Housing for the Elderly). Use the definition of "utility allowance" in Exhibit 3-1. It is determined as provided under the definition of "utility allowance" in 24 CFR Part 813.102.

12. Welfare Assistance. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, state or local government.
13. Welfare Rent. This concept is used for Section PAC and PRAC tenants who receive welfare assistance on an "AS-PAID" basis. (See the discussion of "as-paid" at the end of Exhibit 3-3.) Welfare rent is also used also for Section 8 and RAP tenants.
 - 1) If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities--NOT the amount the family is receiving at the time the certification or recertification is being processed.
 - 2) If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow. (See example in at the end of Exhibit 3-3.)

4350.3 CHG-27
EXHIBIT 3-3

4350.3 CHG-27
EXHIBIT 3-3

EXHIBIT 3-3
TENANT RENT FORMULAS ESTABLISHED BY THE HOUSING
AND COMMUNITY DEVELOPMENT ACT OF 1981
(These are the formulas referenced in Chapter 3
and used in the 59 Data Requirements
in Appendix 11)

SECTION 8, RAP, PAC, AND PRAC

Total Tenant Payment (TTP) is the
GREATER of:

30% of Adjusted Income
or
10% of Gross Income
or
Welfare Rent (Applies only to
welfare recipients in as-paid
states or counties.) See the
end of this Exhibit for a
discussion of as-paid.

NOTE: An owner may admit an
applicant to the Section 8, RAP and
PAC programs only if the TTP is less
than the gross rent. This note does
not apply to the PRAC program. In
some instances under the PRAC
program a tenant's TTP will exceed

the PRAC operating rent (gross rent).

RENT SUPPLEMENT

TTP is the GREATER of:

30% of Adjusted Income
or
30% of Gross Rent

NOTE: For move-ins and INITIAL CERTIFICATIONS, the amount of Rent Supplement assistance may be no less than 10 percent of the gross rent. If the initial amount of Rent Supplement assistance would be less than 10 percent of the gross rent, the tenant is NOT eligible for Rent Supplement Assistance.

SECTION 236

Without Utility Allowance

Tenant Rent is:

0 the GREATER OF:

- 30% of Adjusted Income
or
- Basic Rent

0 But not more than Market Rent
With Utility Allowance

Tenant Rent is:

0 the GREATER of:

- 30% of Adjusted Income less
the Utility Allowance
or
- Basic Rent
or
- 25% of Adjusted Income

0 But NO MORE than Market Rent

BMIR

At initial certification, the tenant pays the BMIR contract rent (i.e., the rent shown on the project Rent Schedule).

At recertification, tenant rent varies according to how the tenant's annual income compares to the BMIR income limit. If the tenant's annual income is:

- less than or equal to 110% of the BMIR income limit, the tenant pays the BMIR contract rent.
- greater than 110% of the BMIR income limit, the tenant pays the GREATER of the BMIR market rent or the rent they are now paying.

PUBLIC ASSISTANCE INCOME IN AS-PAID WELFARE PROGRAMS. Use this paragraph to determine the Welfare Rent and the Annual Income for Section 8, RAP, PAC AND PRAC Tenants who live in "As-Paid" states or counties. See Exhibit 3-3, Tenant Rent Formulas where "welfare rent" is a line item on the worksheet for these programs in determining the Total Tenant Payment.

IMPORTANT: Owners MUST check with the HUD Field Office before calculating incomes from "as-paid" programs, because welfare programs may operate differently in some states or counties.

- a. A welfare program is considered "as-paid" if the welfare agency:
 - 1. Designates a specific amount for shelter and utilities; and
 - 2. Adjusts that amount based upon what the family is currently paying for those items.
- b. The amount of Welfare Assistance income to be included as Annual Income must include the SUM of:
 - 3. The amount the welfare agency verifies the family will receive for needs other than shelter and utilities AND
 - 4. The maximum the welfare assistance agency could allow the family for shelter and utilities. This amount may be all or only some percentage of the amount shown on assistance schedules published by the welfare agency.

NOTE: This may be different than the amount the family is receiving at the time the certification/recertification is being processed.

- a) If the agency pays the full amount, include the amount the agency's schedule shows for that size family.

OR

- b) If the agency pays only a part of the published amounts, include the published amount multiplied by the percentage the agency pays (e.g., 80% of the published amount). When the agency pays only a percentage of the published schedules, payments are said to be "ratably reduced."

EXAMPLE

The agency's published schedule shows a maximum of \$180 for shelter and utilities for this size family. The welfare agency has verified that the family will receive \$220 for other general needs. For the purpose of this example, this is the only income of the family.

If the agency does not apply a ratable reduction, \$400 will be included in annual income and "welfare rent" will be \$180. If the agency applies a ratable reduction, annual income and welfare rent would be computed as shown below.

Maximum Amount that Can be
Provided for Housing

\$ 180 maximum allowed
for housing
x .80 ratable reduction
\$ 144 Maximum Amount that
Can be Provided
for Housing

Application of the Section 8
Tenant Rent Formula in Exhibit
3-3:

Total Tenant Payment is the
greater of:

\$109 30% of Adjusted Income
(.30 x \$364)

\$ 36 10% of Gross Income
(.10 x \$364)

\$144 Welfare Rent

The TTP for this tenant is \$144.
Monthly Income

\$ 220 basic needs

+ 144 welfare rent
364 monthly income

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EXHIBIT 3-4

EXHIBIT 3-4

ASSETS

SUBJECT	USEFUL REFERENCES	PARAGRAPH
Counting Income from Assets in Determining Annual Income		3-9
Valuing Assets		3-12
Assets Owned Jointly		3-13
Imputed Income from Assets		3-15
Special Rules When Assets are Disposed of		3-16
Lump Sum Receipts (one-time receipts)		3-19

NOTE: There is no asset limitation for participation in HUD assisted housing programs. However, the definition of annual income includes net income from family assets

A. Net Family Assets Include:

1. Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average balance for the last six months. Assets held in Foreign countries are considered assets.
2. Revocable Trusts. Include the cash value of any revocable trust available to the household. See discussion of trusts in paragraph 3-14.
3. Equity in Rental Property or Other Capital Investments. Include the current fair market value less: (a) any unpaid balance on any loans secured by the property; and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.)

NOTE: If the person's main business is real estate, then count any income as business income under paragraph 3-21. Do not count it as an asset and as business income.

4. Stocks, Bonds, Treasury Bills, Certificates of Deposit, Money Market Accounts.
5. Individual Retirement and Keogh Accounts. These are included because the holder has access to the funds, even though a penalty may be assessed. If the individual is withdrawing from the account, determine the amount of the asset by using the average balance for the previous 6 months. (Do not count withdrawals as income.)

EXAMPLE: Mrs. Pham has a Keogh account valued at \$30,000. When she turns 70 years old, she begins withdrawing \$2,000 per year. Continue to count this account as an asset using the guidance in paragraph 3-12, Valuing Assets. Do not count the \$2,000 she withdraws as income.

6. Retirement and Pension Funds.

- a. While the person is employed. Include only amounts the family can withdraw without retiring or terminating employment. Count the whole amount less any penalties or transaction costs. Follow paragraph 3-12 on determining the value of assets.
- b. At retirement; termination of employment or withdrawal.
Periodic receipts from pension and retirement funds are counted as income.
Lump sum receipts from pension and retirement funds are counted as assets. Count the amount as an asset or as income as provided below.

- 1) If benefits will be received in a lump sum, include the lump sum receipt in Net Family Assets.
- 2) If benefits will be received through periodic payments, include the benefits in annual income. Do not count any remaining amounts in the account as an asset.
- 3) If the individual initially receives a lump sum benefit followed by periodic payments, count the lump sum benefit as an asset as provided in the example below and treat the periodic payment as income. In subsequent years, count only the periodic payment as income. Do not count the remaining amount as an asset.

NOTE: This paragraph and the example below assume that the lump sum receipt is a one-time receipt and that it does not represent delayed periodic payments. However, in situations in which a lump sum payment does represent delayed periodic payments, then the amount would be considered as income and not an asset.

EXAMPLE: Upon retirement, Mrs. Reilly receives a lump sum amount of \$15,000, plus she will receive an annuity of \$350 per month. Count the \$15,000 amount she

received as an asset and count the \$350 as income. Count only that portion of the \$15,000 receipt that is placed into an asset listed this Exhibit.

7. Cash Value of Life Insurance Policies Available to the Individual Before Death (e.g., the surrender value of a whole life policy or a universal life policy.) It would not include a value for term insurance, which has no cash value to the individual before death.
8. Personal Property Held as an Investment. Include gems, jewelry, coin collections, or antique cars held as an investment. An applicant's wedding ring and other personal jewelry are NOT considered assets.
9. Lump sum receipts or one-time receipts. (See explanation in paragraph 3-19.) These include inheritances, capital gains, one-time lottery winnings, victim's restitution; settlements on insurance claims (including health and accident insurance; worker's compensation; and personal or property losses); and any other amounts that are not intended as periodic payments.
10. A Mortgage or Deed of Trust Held by an Applicant.
 - a. Payments on this type of asset are often received as one combined payment of principle and interest with the interest portion counted as income from the asset.
 - b. This combined figure needs to be separated into specific principle and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)
 - c. To count the actual income for this asset, use the interest portion paid on the amortization schedule for the 12 month period following the certification.
 - d. To count the imputed income for this asset, determine the asset value at the end of the 12 month period following the certification. Since this amount will continually be reduced by the principle portion paid during the previous year, the owner will have to determine this amount at each annual recertification. See the following example:

EXAMPLE Computation of Imputed Income:
An elderly tenant sells her home and holds the mortgage for the buyer. The cash value of the mortgage is \$60,000. The combined payment of principle and interest expected to be received for the upcoming year is \$5,000. The amortization schedule breaks that payment into \$2,000 in principle and \$3,000 in interest. In completing the

asset income calculation, the cash value of the asset is \$60,000 and the projected annual income from that asset is \$3,000. Each subsequent year, the cash value of the asset should be reduced by the principle portion paid of the amortization schedule. In this example, it would be reduced to \$58,000 after the first year. The owner would multiply this amount by the passbook savings rate provided by the HUD Field Office under paragraph 3-15.

Regulatory References. (These references are current as of the date of publication. Readers should refer to the latest edition of the Code of Federal Regulations.) 24 CFR Parts 812.102, 215.1 and 236.2 define Net Family Assets as:

Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and the equity in a housing cooperative unit in which the family resides. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(In cases where a trust fund has been established and the trust is not revocable by or under the control of any member of the family, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund should be counted when determining Annual Income.)

In determining Net Family Assets, owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

B. Net Family Assets DO NOT include:

IMPORTANT: The owner does not compute income from any assets in this paragraph.

1. Necessary personal property (clothing, furniture, cars, wedding ring, vehicles specially equipped for persons with disabilities)
2. Interests in Indian trust land
3. Term life insurance policies (i.e., where there is no cash

value)

4. Equity in the cooperative unit in which the family lives
5. Assets that are part of an active business. "Business" does NOT include rental of properties that are held as investment and not a main occupation.

EXAMPLE: Mr. and Mrs. Hines own a copier and courier service. None of the equipment that they use in their business is counted as an asset (e.g., the copiers, the FAX machines, the bicycles).

EXAMPLE: Mrs. Washington rents out the home that she and her husband lived in for 42 years. This home is not an active business asset. Therefore, it is considered an asset and the owner must determine the annual income that Mrs. Washington receives from it.

6. Assets that are NOT effectively owned by the applicant. That is, when assets are held in an individual's name but:
 - a. the assets and any income they earn accrue to the benefit of someone else who is not a member of the household; and
 - b. that other person is responsible for income taxes incurred on income generated by the assets.NOTE: Nonrevocable trusts (i.e., irrevocable trusts) are not covered by this paragraph. See paragraph 3-14.

EXAMPLE: Assets held pursuant to a power of attorney because one party is not competent to manage the assets or assets held in a joint account solely to facilitate access to assets in the event of an emergency.

EXAMPLE: Mr. Cumbow and his daughter, Ms. Bornscheuer, have a bank account with both names on the account. Ms. Bornscheuer's name is on that account for the convenience of her father in case an emergency arises that would result in Ms. Bornscheuer handling payments for her father. Ms. Bornscheuer has not contributed to this asset, does not receive interest income from it, nor does she pay taxes on the interest earned. Therefore, Ms. Bornscheuer does not own this account. If Ms. Bornscheuer applies for assisted housing, the owner should not count this account as her asset. This asset belongs to Mr. Cumbow and would be counted entirely as the father's asset should he apply for assisted housing.

7. Assets that are not accessible to the applicant and provide

no income to the applicant. Nonrevcoable trusts are not covered under this paragraph. See paragraph 3-14.

EXAMPLE: A battered spouse owns a house with her husband. Because of the domestic situation, she receives no income from the asset and cannot convert the asset to cash.

4350.3 CHG-27
EXHIBIT 3-5

4350.3 CHG-27
EXHIBIT 3-5

EXHIBIT 3-5

ANNUAL INCOME

USEFUL REFERENCES

SUBJECT	REFERENCE
Whose Income is Counted	3-10.a. Figure 3-1
Whose Income is not Counted	3-10.b. Figure 3-1
What Income is Counted	Exhibit 3-5, paragraph A
What Income is not Counted	Exhibit 3-5, paragraph B

Regulatory Reference: See 24 CFR 813.106(a), 236.3(a) and 215.21(a) for the definition of annual income:

Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets for the 12-month period following the effective date of certification of income, exclusive of certain types of income.

A. ANNUAL INCOME INCLUDES:

1. Interest, dividends and other income from net family assets (including income distributed from a nonrevocable trust). Paragraph 3-14 explains how to treat income distributed from a nonrevocable trust.
2. a. The gross amount (before any payroll deductions) of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services of all adults in the household (including persons under the age of 18 who are the head, spouse or co-head). Includes salaries of adults received from a

family-owned business.

- b. Net income, salaries and other amounts distributed from a business. (See Paragraph 3-21 for guidance on how to calculate these amounts.)
- 3. The gross amount (before deductions for medicare, etc.) of periodic social security payments. Include payments received by adults on behalf of individuals under the age of 18 or by individuals under the age of 18 for their own support. (But see Exhibit 3-5, paragraph B.17, Amounts that are received on behalf of someone who does not reside with the family.)

NOTE: If the Social Security Administration is reducing a family's benefits to adjust for a prior overpayment, count the amount that is actually provided after the adjustment. See example in paragraph 3-11.

- 4. The full amount of annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, (e.g., Black Lung Sick Benefits, Veterans Disability, Dependent Indemnity Compensation (widow of Killed in Action serviceman).

Count the total amount of such amounts received. Do not reduce the amount by any amounts the individual previously paid into the account in order to receive the pension, annuity or insurance policy. See also the discussion in Exhibit 3-4, paragraph A.6b, Retirement and Pension Funds at retirement; termination of employment or withdrawal. It supports this paragraph by stating that periodic amounts are treated as income. It also covers lump sum receipts from pensions and annuities, which are treated as assets.

- 5. Delayed Periodic payments received because of delays in processing unemployment, welfare or other benefits. These are payments that would have been paid periodically, but were paid in lump sum because of circumstances such as processing delays. (See paragraph 3-20.) Also, see Exhibit 3-5, paragraph B.15, for the exclusion of deferred period payments of supplemental security income and social security benefits that are received in a lump sum payment.)
- 6. Payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay. Any payments that will begin during the next 12 months must be included.
- 7. Welfare assistance
 - a. If the payment includes an amount specifically designated for shelter and utilities and the welfare agency adjusts that amount based upon what the family is currently paying for shelter and utilities, special calculations are required for certain tenants. (See Exhibit 3-3.)

- b. If the welfare agency is reducing a family's benefits to adjust for a prior overpayment, count the amount that is actually provided after the adjustment. See example in paragraph 3-11.
- 8. Alimony and child support received by the household, unless exclusion of these amounts is justified by paragraph 3-22.
- 9. Alimony or child support paid by a member of the household is counted as income, even if it is garnished from wages.

EXAMPLE: Mr. Graevette pays \$150 per month in child support. It is garnished from his monthly wages of \$950. After the child support is deducted from his salary, he receives \$800. The owner must count \$950 as Mr. Graevette's monthly income.

- 10. Recurring monetary contributions or gifts regularly received from persons not living in the unit. Except, exclude from Annual Income recurring monetary contributions that are paid directly to a child care provider by persons not living in the unit. See explanation for this exclusion in paragraph B.17 of this Exhibit 3-5. Also, exclude gifts of groceries in paragraph B.1 of this exhibit.
- 11. Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- 12. Actual income distributed from trust funds that are not revocable by or under the control of any member of the tenant family. See discussion in paragraph 3-14.

NOTE: Even if family assets exceed \$5,000, use actual income distributed from the irrevocable trust.

B. WHAT IS EXCLUDED FROM ANNUAL INCOME

- 1. Meals on wheels or other programs that provide food for the needy; groceries provided by persons not living in the household; and amounts received under the School Lunch Act and the Child Nutrition Act of 1966 (including reduced lunches and food under Special Supplemental Food Program for Women, Infants and Children (WIC)).
- 2. Amounts paid by a State agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- 3. Grants or other amounts received specifically for:
 - a. Medical expenses (including medicare premiums paid by an outside source).
 - b. Set aside for use under a Plan to Attain Self

Sufficiency (PASS) and excluded for purposes of Supplemental Security Income (SSI) eligibility.

NOTE: A PASS permits a person with disabilities who is receiving Supplemental Social Security (SSI), and who is also receiving other income, to set aside a portion of the other income in order to achieve a work-related goal.

- c. Out of pocket expenses for participation in publicly assisted programs. Such amounts must be made solely to allow participation in these programs. These expenses include special equipment, clothing, transportation, child care, etc.
- 4. The full amount of student financial assistance either paid directly to the student or to the educational institution. (This includes scholarships, grants, fellowships and any other kind of student financial assistance.) It does not matter what the assistance is actually used for.

Background history: This paragraph reflects changes to 24 CFR 215.21, 236.2, and to 813.106 to exclude from Annual Income all amounts of student financial assistance. Prior to this handbook change, Notice H 93-92 excluded from income all amounts of student financial assistance received under Title IV of the Higher Education Act of 1965. Prior to Notice H 93-92, only certain amounts received under Title IV were excluded from income.
- 5. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household, co-head, and spouse).
- 6. Adoption assistance payments in excess of \$480 per adopted child.
- 7. Loans (e.g., personal loan); NOTE: But see paragraph 3-21 on business loans which are not excluded.

EXAMPLE: Mr. Jones obtained a loan for \$2,000. It does not matter how he used this money. It is not counted as income because Mr. Jones will have to repay it.

- 8. Temporary, nonrecurring or sporadic income (e.g., gifts; census taker income from the Federal Bureau of the Census).
- 9. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
- 10. The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operations Desert Storm).
- 11. Amounts received under training programs funded by HUD

(Comprehensive Improvement Assistance Program; Training received under Section 3).

12. Compensation from State or local employment training programs and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for a limited period as determined in advance under the program by the state or local government.
13. A resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time.
14. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. Examples include payments by the German and Japanese governments for atrocities committed during the Nazi era. Any individual receiving payments under this paragraph, who has been required to repay housing assistance as a result of receiving such payments, shall not be required to make further repayments on or after April 23, 1993.

NOTE: Until April 23, 1993, the Department included reparation payments in the determination of Annual Income. On April 25, 1995, the Office of Housing published a notice in the Federal Register (at FR 20356) stating its desire to refund residents for the higher rents they paid (including any repayments they made) because of the previous policy to count reparation payments in Annual Income. See Appendix 16 for an explanation of the Department's intentions. A copy of the notice appears at the end of this exhibit.
15. Deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment.

NOTE: This exclusion became effective for the Section 8 programs on October 28, 1992. For all other programs, this exclusion became effective on May 5, 1995.
16. Payments received for the care of foster children or foster adults. (Foster adults are usually adults with disabilities, who are unrelated to the tenant family, and who are unable to live alone). This term is defined in 24 CFR 215.21(c)(2); 236.3(c)(2); and 813.106(c)(2). (See FR 17393 dated April 5, 1995.)
17. Amounts that are received on behalf of someone who does not reside with the family, as long as the amounts:

- a. are not intermingled with the family's funds; and
- b. are used solely to benefit the person who does not reside with the family

NOTE: For such amounts to be excluded, the individual must provide the owner with an affidavit stating that the amounts are received on behalf of someone who does not reside with the family and the amounts meet the conditions in paragraphs a and b above. See paragraph 3-17, Income of Temporarily Absent Members.

EXAMPLES

Sarah receives housing assistance. Her 12-year-old sister, Ellen, lives with her mother in other housing in the same city. Sarah has been designated as the Representative Payee for Ellen's SSI payments. The Social Security Administration designated Sarah as a Representative Payee for Ellen because her mother is a heroine addict. Sarah makes sure that Ellen's SSI payments are used exclusively for Ellen.

Mariah receives royalty income which is reported on a Form IRS 1099. Mariah distributes this income to the designated heirs in accordance with her aunt's will and retains only the amount to which she is entitled. Only count the royalty income that is designated specifically for Mariah. Mariah will have to show the owner that she distributes this income to the other heirs.

- 18. Recurring monetary contributions that are paid directly to a child care provider by persons not living in the unit. This exclusion is based on a handbook interpretation of reimbursed child care expenses under the definition of Adjusted Income and its bearing on Annual Income. (See 24 CFR Parts 813.1, 215.1, and 236.1.) In relevant part, the regulations define child care expenses to include "amounts to be paid by the family for [child care] . . . to the extent [they are] not reimbursed." This handbook interprets the regulations to mean that child care expenses that are reimbursed are not included as annual income.
- 19. Income excluded by Federal statute:
 - a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977.
 - b. Payments received under Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions.)

c. The following income:

- 1) Interests of individual Indians in trust or restricted lands, and the first \$2,000 per year of income received by individual Indians that is derived from trust or restricted lands. (25 U.S.C. 1408)
- 2) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)) received from a Native Corporation, including:
 - a) cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed \$2,000 per individual per annum;
 - b) a partnership interest;
 - c) land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and
 - d) an interest in a settlement trust.

NOTE: For paragraphs c and d, some tribal corporations receive payments on individuals' behalf and invest these amounts. The proceeds from these investments are then paid to the individuals. Such amounts also would be excluded from income.

- 3) Payments from certain submarginal U.S. land held in trust for certain Indian tribes.
 - 4) Payments from disposal of funds of Grand River Bank of Ottawa Indians.
 - 5) The first \$2,000 of per capita shares received from judgments awarded by the Indian Claims Commission or the Court of Claims or from funds the Secretary of Interior holds in trust for an Indian tribe.
- d. Payments, rebates or credits received under Federal Low-income Home Energy Assistance Programs. Includes any winter differentials given to elderly (e.g., Department of Health and Human Service's Low-income Home Energy Assistance Program).
- e. Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for native americans and migrant and seasonal farmworkers, Job Corps, veterans

employment programs, State job training programs, career intern programs, AmeriCorps.)

- f. Payments received under Title V of the Older Americans Act (Green Thumb, Senior Aides, Older American Community Service Employment Program).
- g. Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation. M.D.L. No. 386 (E.D.N.Y.)
- h. Payments received under the Maine Indian Claims settlement Act of 1980. (Pub. L. 96-420, 9z Stat. 1785)
- i. Any earned income tax credit to the extent it exceeds income tax liability. (26 U.S.C. 32(j))
- j. The Value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (CCDBG) (42 U.S.C. 9858q). Participating families may either pay a reduced amount based on a sliding fee scale or they may receive a certificate for child care services.

NOTE: This exclusion does not apply to amounts received by a child care provider for services paid through the CCDBG.

EXAMPLE: The following is excluded from Annual Income. Ms. Nguhen receives a certificate for child care services under CCDBG.

EXAMPLE: The following is included in Annual Income. Ms. Anderson, an assisted tenant in a Section 8 project, is paid through the CCDBG for child care services she provides to Ms. Nguhen. The income she receives for providing this child care is included in annual income.
